

GOVERNMENT CLASS-BOOK

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THE

GOVERNMENT CLASS BOOK

*A MANUAL OF INSTRUCTION IN THE PRINCIPLES OF
CONSTITUTIONAL GOVERNMENT AND LAW.*

PART I. PRINCIPLES OF GOVERNMENT.

BY ANDREW W. YOUNG,

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THOROUGHLY REVISED

BY SALTER S. CLARK,

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PART II. THE GOVERNMENT OF ILLINOIS.

BY

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PREFACE

THE study of the principles of political science is a necessary part of a liberal education. In a country where the people govern themselves the science of government is a necessary part of a common-school education. In the United States the people elect their own law-makers and rulers, establish their own constitutions, and determine even the fundamental principles upon which men shall be governed. The danger of entrusting such power to the ignorant has not failed of illustration in our States and cities. Having universal suffrage, the people must learn to govern themselves for the sake of their own preservation and welfare.

Nor is a knowledge of the principles of legal science less necessary to every citizen. The laws of man know as little of mercy as the laws of nature, in that law never admits ignorance as an excuse for wrong. It is a proof of the essential justice of our system of jurisprudence, that so many citizens pass safely through life, totally ignorant of the law, and relying merely upon their own sense of what should be. And yet every day gives proof that ignorance is always dangerous. The study of such a work as this will not make a youth a lawyer, but it will fix in his mind a system of broad principles, which cannot fail to be useful practically.

Though these facts are self-evident, the popular

study of law and good government has been strangely neglected in this and every other country. The aim of this book, in supplying a manifest want, is to present, in such form as to be used chiefly as a text-book for schools, a broad and comprehensive view of the principles of government and law in the United States. These principles are substantially the same throughout the country, and the young may easily learn the varied rights and duties of a citizen in relation to his government and his fellow-men.

The book is divided into two parts :

Part I., *Principles of Government*, is devoted (after a few chapters upon general principles), first, to government by the State, and second, to government by the Nation. It is here that the book is believed to have its chief advantage over others of its kind. In all that we have examined, either one or the other of these subjects has been neglected. Some of our American youth have grown to manhood with so little appreciation of the political importance of the State, as to believe it nothing more than a geographical division; others have placed the State too high, and failed to realize the power and dignity of the Nation. In reality, the National Government, on the one hand, is of far greater historic interest and permanent political importance, as really governing the future freedom or serfdom of the people. On the other hand, the State, which says whether the particular individual shall vote, what rights of property he shall have, and what shall be the punishment for his crimes, enters far more into the daily affairs of the single citizen, touches him at more points, and is therefore of greater temporary interest. Both subjects should be studied, and it is of

especial importance at this time that their relation to each other should be clearly presented to the youth of the land, for State rights and National rights must forever coexist.

Part II., *The Government of Illinois*. This part treats of the State and local government of Illinois, and gives a careful analysis of its constitution, which is printed in full in the appendix.

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PRINCIPLES OF GOVERNMENT AND LAW

PART I *PRINCIPLES OF GOVERNMENT*

DIVISION I GENERAL PRINCIPLES

CHAPTER I

MANKIND FITTED FOR SOCIETY, GOVERNMENT, AND LAW

1. Mankind Social—Men are by nature fitted for society. By this we mean that they are naturally disposed to associate with each other. They could not be happy without such association. Hence we conclude that the Creator has designed men for society.

2. Dependent on Each Other—Man is so formed that he is dependent upon his fellow-men. He has not the natural strength of some animals. We can hardly imagine how a man could defend himself against the beasts, or even procure the necessities of life, without assistance from his fellow-beings. But by means of speech men learn from each other how to

supply their wants and improve their social condition.

3. Each Must Support Himself—But, although men need the assistance of each other, society is so formed that each must take care of himself. If every man were fed and clothed from a common store provided by the labor of all, many, depending upon the labor of others, would be less industrious than they now are. By the present arrangement, which obliges every man to provide for his own wants, more is produced, a greater number are cared for, and the general welfare is better promoted than if each labored for the benefit of all.

4. Right of Property—From this arrangement comes the right of property. If each man's earnings should go into a common stock for the use of all, there would be nothing that any one could call his own. But if each is to provide for himself, he must have a right to use and enjoy the fruits of his own labor.

5. Common to All—But all men in society have the same rights. Therefore we cannot rightfully supply our own wants or gratify our own desires any further than is consistent with the rights of others. But man is by nature selfish, and many would infringe the rights of others, for their own selfish ends, unless restrained. Hence we see the necessity of some fixed rules that each one may know what he may do, and what he must not do.

6. Law—These rules for regulating the social actions of men are called laws. *Law*, in a general sense, is a rule of action, and is applied to all kinds of action; as, the law of gravitation, the laws of chemistry, etc. But

in a limited sense, it denotes the rules of human action prescribing what men are to do, and forbidding what they are not to do.

7. Man a Moral Being—We have seen that man is fitted for law, because he is designed for society, and law is necessary to govern society. By nature, also, he is fitted for government and law, because he is a *moral* being. The word *moral* has various significations. When we say, a moral man, we mean a virtuous or upright man. But in a wider sense it relates to the social actions of men, both right and wrong, as when we say, his morals are good, or his morals are bad. When it is said that man is a moral being, it is meant that he has a sense of right and wrong, or at least the power of acquiring it. He knows what is right and what is wrong, and he knows that he ought to do the right and avoid the wrong. Therefore he is fitted to understand why laws are right.

8. Government Necessary—Thus we have seen that men are social, reasonable, and moral beings, and that for each one of these reasons they are fitted for society and law. But law cannot exist without government. Law is a rule of action laid down by the supreme power, and if there is no supreme power there can be no law. Hence we see the necessity for government. It is not probable that people knowingly acted on these principles in first forming governments; that is, deliberately met together and agreed to have a certain government and certain laws. But it is these principles that maintain law and government now.

CHAPTER II

RIGHTS, LIBERTY, AND LAW, CLASSIFIED

1. Rights—A right is a just claim. We have a right to what we have acquired by honest labor, or other lawful means, because we are justly entitled to freely use and enjoy it. We have a right to our lives, and to our freedom; that is, to do whatever we think necessary for our own safety and happiness, provided we do not trespass upon the rights of others, because it would be unjust to deprive us of our lives or freedom.

2. How Forfeited—But society has its rights also, and if we infringe them it is just we should be punished by losing some of our own. We may forfeit them by some offence or crime. If, for example, a man is fined for breaking a law, he loses his right to the money he is obliged to pay. By stealing, he forfeits his liberty, and may be justly imprisoned. By committing murder, he forfeits his right to life, and may be hanged.

3. Political Rights—Rights are *political* or *civil*. *Political rights* are those which each citizen has with reference to sharing in the government. The word *political*, in a general sense, relates to the government. The whole body of the people united under one government is called the political body, or body politic. The right of the people to choose and establish for themselves a form of government, or constitution, and the right to elect persons to make and execute the laws, are political rights. The right of voting at elections is therefore a political right. Political rights are derived from the constitution. Under absolute monarchies,

therefore, where there is no constitution, the people have no political rights; under democracies they have more than under any other form of government.

4. Civil Rights are all those which are not *political*. They are the rights which govern our ordinary, everyday actions; such as, the right to go where we please, to do whatever we wish with our own property, or to control our children. They are also called *natural rights*, because given to us by nature, or by birth; and sometimes *inalienable rights*, because they cannot justly be taken away from us. They are called *civil* because they relate to the ordinary duties of a citizen.

5. Absolute Civil Rights—Civil rights are either *absolute* or *relative*. The *absolute civil* rights are such as we have as individuals, as members of society, in our relations to all the other members of society. They are divided into three classes: the right of *personal security*, which is the right to be secure from injury to life, body, health, or reputation; the right of *personal liberty*, which is the right to go wherever we please; and the right of *private property*, or the right to acquire property and enjoy it without disturbance. These are often called *personal rights*, or the *rights of persons*. The term *rights of person* includes only the first two; viz., the rights of *personal security* and *personal liberty*. *Religious rights*, which consist in the right to worship God in whatever way each one thinks best, and to make known and maintain his religious beliefs, are absolute rights.

6. Relative Civil Rights are such as we have in our relations to particular persons or classes. They are either *public* or *private*. The *public relative civil rights* are those we have in our relations to the gov-

ernment (except the right to share in it); as, the right to be protected by it, and the right the government and its officers have to our obedience. The *private relative civil rights* are such as are connected with the four relations of husband and wife, parent and child, guardian and ward, and employer and employed; as, the right of the parent to be obeyed by the child, or the right of the wife to be supported by her husband.

7. Liberty is the being free to exercise and enjoy our rights, and is called natural, political, civil, or religious, according to the particular class of rights referred to. Thus the exercise of rights guaranteed by the constitution or political law is called political liberty. The free enjoyment of rights secured by the civil or municipal laws is called civil liberty. And freedom of religious opinion and worship is called religious liberty. *Freedom of speech* and *freedom of the press* mean the liberty to speak and print whatever we choose, provided we do not abuse the right.

8. Law—It is easy to see that it makes little difference how many rights a man has, unless there is some power to insure him the liberty to enjoy them. The object of law is to secure to all men the various kinds of rights we have described. It has different names, corresponding to the kinds of rights which it protects; as, the *political law*, which secures our *political rights*, and the *civil* or *municipal law*, which secures our *civil rights*. The word *municipal* was used by the Romans to designate that which related to a *municipium*; i.e., a free town, or city. And so, often, we use the term *municipal law* as denoting the law that relates to cities or towns, but here it is used in a broader sense, and includes the body of laws

which prescribe what we may, or must not, do, and is equivalent to *civil law*.* The constitution is the *political law*; the body of laws governing the ordinary actions of men is the *civil* or *municipal law*; and the rules which regulate the intercourse of nations constitute *international law*.

9. The Moral Law is that which prescribes man's duties not only to his fellow-men, but also to God. It is briefly expressed in the decalogue, or ten commandments, and is still more briefly summed up in the two great commandments, to love God with all our heart, and to love our neighbor as ourselves. It is sometimes called the *divine law*, because God is its author; and the *revealed law*, or *law of revelation*, because it is revealed to man in the Scriptures. As a rule of conduct it is also the same as the *law of nature*, the only difference between them being in their origin; the former, the *revealed law*, coming directly from God, and the latter, the *law of nature*, coming from nature—that is, our own consciousness in its perfect state.

10. Broader than Civil Law—Although the moral law is a perfect rule of action, to which all human laws ought to conform, yet the civil law does not, and cannot, embrace all that the moral law does. The moral law is directed not only to the outward acts, but also to the thoughts and intents of the heart. It requires us to love our Creator supremely, and our neighbor as ourselves; in other words, to do to others as we would that they should do to us. But as the omniscient God only knows when men fail in these duties, no human

* Care must be taken to distinguish the term, as used in this connection, from the Civil Law, a name for the old Roman law.

authority could enforce such a law. Human laws, therefore, have respect chiefly to the outward acts of men, and are designed to regulate their intercourse with each other.

RIGHTS OF CITIZENS

- { I. **POLITICAL**; these are
 - { 1. Right of all to establish a government, and
 - { 2. Right of each to share in it, by voting.
- { II. **CIVIL**; these are
 - { 1. **ABSOLUTE**; they are the right of
 - { 1. Personal Security,
 - { 2. Personal Liberty, and
 - { 3. Private Property.
 - { 2. **RELATIVE**; these are
 - { 1. **Public**; they are
 - { 1. Right of people to protection of government, and
 - { 2. Right of government to obedience of people.
 - { 2. **Private**; arising from relations of
 - { 1. Husband and wife,
 - { 2. Parent and child,
 - { 3. Guardian and ward, and
 - { 4. Employer and employed.

CHAPTER III

DIFFERENT FORMS OF GOVERNMENT

1. Patriarchal Government—Governments have existed in a great variety of forms. Most existing governments are, more or less, mixtures of the different kinds. The earliest governments of which we have any knowledge are the patriarchal. *Patriarch*, from the Greek *pater*, father, and *archos*, chief, or head, means the father and ruler of a family. This kind of government prevailed in the early ages of the world, and is the form adapted to a state of society where the people dwell together in families or tribes, and are not yet formed into states or nations. Abraham was a patriarchal ruler.

2. Theocracy—After their departure from Egypt, the government of the Hebrews was a *theocracy*. This word is from *theos*, God, and *kratos*, power, and signifies a government by those who are also the religious rulers, or, as it is claimed, by the immediate direction of God. The laws by which they were governed they believed were given to them on Mount Sinai by God himself, their leader and king.

3. Most Common Forms—But the most common forms of government are monarchy, aristocracy, and democracy. Many claim that all kinds of government may be reduced to one of these three. For example, the patriarchal government is but a kind of monarchy. The power of government is, in a general sense, called the *supreme* power, or *sovereignty*.

4. Monarchy—The form of government in which

the supreme power is in the hands of one person is called a *monarchy*. The word *monarch* is from two Greek words, *monos*, sole or only, and *archos*, a chief; and is a general name for a single ruler, whether he be called king, emperor, or prince. A government in which all power resides in or proceeds from one person is an *absolute* monarchy. If the power of the monarch is restrained by laws or by some other power, it is called a *limited* monarchy. The English Government is a limited monarchy. A monarchy is called *hereditary* in which the crown passes from father to son, or from the monarch to his successor, by inheritance. On the death of a sovereign, the eldest son is usually heir to the crown. A monarchy is *elective* where, on the death of the ruler, his successor is appointed by an election. Only a few such monarchies have existed.

5. Despotism—An absolute monarchy is sometimes called *despotism*. The words *despot* and *tyrant* at first meant simply a *single* ruler. They are now applied, for the most part, to rulers who exercise authority over their subjects with severity. In an absolute despotism, the monarch has entire control over his subjects. They have no law but the will of the ruler, who has at command a large force of armed men to keep his people in subjection. The governments of Russia and Turkey are more despotic than any others in Europe.

6. Aristocracy is the form of government in which the power is exercised by a privileged order of men, distinguished for their rank and wealth. The word *aristocracy* is from the Greek word *aristos*, best, and *kratos*, power, or *krateo*, to govern; and meant, originally, government by the best men. It is also used

for the nobility of a country under a monarchical government. *Nobles* are persons of rank above the common people, and bear some title of honor. The titles of the English nobility are duke, marquis, earl, viscount, and baron. These titles are hereditary, being derived from birth. In some cases they are conferred upon persons by the king.

7. Democracy is government by the people; the word democracy being from the Greek *demos*, the people, and *krateo*, to govern. In a government purely democratic, the great body of freemen meet in one assembly to make and execute the laws. There were some such governments in ancient Greece; but they necessarily comprised small territories, scarcely more than a single town. The freemen of a state could not all meet in a single assembly.

8. A Republic is that kind of democracy in which the power to enact and execute the laws is exercised by representatives, who are persons elected by the people to act for them. The people not only enact the laws and execute them through the representatives whom they elect, but also adopt their own constitution or form of government, and thus all power comes from the people, the government being properly called a *representative democracy*. A republic is sometimes also called a *commonwealth*, because its object is the common happiness of all.

9. In this Country the people are everywhere under two governments, the State and the National Government. The United States is a republic, and so, also, is each State. Each State has given up to the Nation those powers and duties which naturally belong to a nation in its relations with foreign powers, as the

right to make war or treaties, and also has given up the power to make laws on subjects in which all the people in the country are interested together, as commerce, the coining of money, and patents. But the State retains all the powers it has not given up, and both State and National Governments are independent of each other, each in its own sphere. The *Territories*, until they become States, are under the United States Government. It grants them, to a certain extent, through Congress, self-government, on the plan of the State governments, but it can take it away at any time.

KINDS OF GOVERNMENT

I. MONARCHY; this may be,

- | | | | | | |
|---|-------------------|--|---|-------------------|---|
| { | 1. As to Power, | | | | |
| | | <table border="0"> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>1. Absolute, or</td> </tr> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>2. Limited.</td> </tr> </table> | { | 1. Absolute, or | { |
| { | 1. Absolute, or | | | | |
| { | 2. Limited. | | | | |
| { | 2. As to Title, | | | | |
| | | <table border="0"> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>1. Hereditary, or</td> </tr> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>2. Elective.</td> </tr> </table> | { | 1. Hereditary, or | { |
| { | 1. Hereditary, or | | | | |
| { | 2. Elective. | | | | |

II. ARISTOCRACY;

III. DEMOCRACY; this may be,

- | | |
|---|-----------------------|
| { | 1. Pure Democracy, or |
| | 2. Republic. |

DIVISION II

STATE GOVERNMENTS

SECTION I.—INTRODUCTORY

THEIR BASIS, THE CONSTITUTION; ELECTIONS; THREE DEPART- MENTS

CHAPTER IV

CONSTITUTIONS : THEIR NATURE, OBJECT, AND ESTAB- LISHMENT

1. Republic the Best Government—Of all the different forms of government which have existed, a republican government, on the plan of that which has been established in this country, is believed to be best adapted to secure the liberties of a people, and to promote the general welfare. Under the reign of a wise and virtuous ruler, the rights of person and property may be fully enjoyed, and the people may be in a good degree prosperous. But the requisite virtue and wisdom combined have seldom been found in any one man (*i.e.*, a monarchy), or a body of men (*i.e.*, an aristocracy). And, as we in this country believe, experience has proved that the objects of civil government may be best secured by a written constitution founded upon the will or consent of the people. Each State in the Union has such a constitution, and the Nation itself has one.

2. Constitution—The word *constitute* is from the Latin, and signifies *to set*, to fix, to establish. *Constitution*, when used in a political sense, means the established form of government of a state. In a free government, like ours, it is properly called the *political law*, being established by the people as a body politic. (Page 16, § 8.) It is also called the *fundamental law*, because it is the *foundation* of all other laws of the state, and of all the powers of the state, legislative, executive, and judicial.

3. Nature—A constitution is in the nature of an agreement between a whole community, or body politic, and each of its members. This agreement or contract implies that each one binds himself to the whole, and the whole binds itself to each one, that all shall be governed by certain laws and regulations for the common good.

4. Convention—In forming a constitution, the people must act collectively. But their number is too large to meet in a single assembly. Therefore they choose a small number to act for them. One or more are chosen in each county, or smaller district, and are called delegates. A *delegate* is a person appointed by another with power to transact business as his representative. The assembly composed of the delegates so elected is called a *convention*, a name given to most public meetings other than legislative assemblies. The convention draws up in proper form a paper containing the fundamental laws and general form of government, under which it thinks the people wish to be governed.

5. Adoption by People—But what has thus been prepared by the convention is not yet a constitution.

It is only a draft of one, and cannot, in general, become a constitution without the consent of the people to be given at an election. If a majority of the persons voting at such election vote in favor of the proposed constitution, it is adopted, and becomes the constitution of the State.

6. Amendment—A constitution usually provides for its own amendment. Amendments are, generally, proposed and passed by the legislature, sometimes on two successive years, and then submitted to the people.

7. Value—One of the most valuable rights of the people under a free government is the right to have a constitution of their own choice. Indeed, it is in this right that their freedom principally consists. It is by the constitution that their rights are secured. The legislature can pass no laws that the constitution forbids, and if they should enact unjust and oppressive laws, the people, having by their constitution reserved the right to displace them, may do so by electing others in their stead.*

8. Other Governments—In an absolute monarchy the people have neither the right to establish their own form of government, nor the right to elect their law-makers. The will of the monarch is the only law. In a limited monarchy they have some political rights. In Great Britain the people elect representatives to the House of Commons, which is the most important part

*It would seem to follow from this that the people of any State, having the right to select their own form of government, might, if they wished, choose any form; for example, a monarchy. But it must be remembered that this country is a nation, and not a collection of States, and that the United States Constitution has guaranteed to every State in the Union a republican government, or, in other words, forbidden any other form.

of the legislature; but they did not originally establish the form of government. The English have no written constitution. What is called the English constitution consists of the body of fundamental laws, principles, and customs which in the course of centuries have become securely fixed. But Parliament, the English law-making body has the power to make any law it sees fit.

CHAPTER V.

QUALIFICATIONS OF ELECTORS.

1. Electors—One of the first provisions usually inserted in the constitution of a free state is that which declares who shall be allowed to take a part in the government; that is, to whom the political power shall be intrusted. The political power of the people consists chiefly in the right to vote, called the *right of suffrage*. The constitution regulates this, and does not give it to every one in the state, but only to such as are qualified to exercise it understandingly. Those who have the right of suffrage are called *electors*.* When, therefore, we speak of the people politically, we mean those only who are qualified electors.

2. Age—An elector must be twenty-one years of age. Before that age young men have not the necessary knowledge and judgment to act with discretion. Some are competent at an earlier age; but a constitution can make no distinction between citizens. It has, therefore, in accordance with the general opinion, fixed the time at the age of twenty-one when men shall be

* These are not Presidential Electors. The word is used here in a general sense. For Presidential Electors, see page 169.

deemed capable of exercising the rights and performing the duties of freemen.

3. Sex—It is a general rule that no woman can vote, although the question has been settled in some States in favor of woman suffrage.

4. Residence—That a man may vote understandingly, he must have resided long enough in the State to have become acquainted with its government and laws, and to have learned the character and qualifications of the persons for whom he votes. State constitutions therefore require that electors shall have resided in the State for a specified period of time, varying, however, in the different States from three months to two years. In most of the States they must also have resided for some months in the county or district, and be residents of the town in which they offer to vote.

5. Aliens—Persons born in foreign countries are *aliens*, and in most States have no right to vote. They are presumed to have too little knowledge of our government, and to feel too little interest in public affairs, on their first coming hither, to be duly qualified for the exercise of political power. Laws, however, have been enacted for naturalizing aliens after they shall have resided here long enough to become acquainted with and attached to our government. By naturalization they become citizens, entitled to all the privileges of native or natural-born citizens except election to the office of President or Vice-President. (See page 148.)

6. Criminals—It is provided also in State constitutions that electors convicted of infamous crimes are disfranchised. *Franchise* is a right or privilege. The right of voting is called the *elective franchise*; and an elector when deprived of this privilege is *dis-*

franchised. Men guilty of high crimes are deemed unfit to be intrusted with so important a duty as that of electing the persons who are to make and execute the laws of the State. It is provided, however, that if such persons are pardoned before the expiration of the term for which they were sentenced to be imprisoned, their forfeited rights are restored.

7. Idiots and *lunatics* have no right to vote, for the reason that they cannot use it understandingly.

8. Property—In general it is not now necessary for an elector to own property. By the earliest constitutions of many of the old States, electors were required to own property, or to have paid rents or taxes, to a certain amount. In the constitutions of the newer States, and the amended constitutions of the old States, property has not been made a qualification of an elector. In many States, however, paupers have no vote.

9. Color—There is now no distinction of color in the right to vote, and the negro has the same privilege as the white man in all the States. Up to the adoption of the fifteenth amendment to the Constitution of the United States, in 1870, colored people, whether slave or free, could not vote in the Southern States, and in only three or four of the Northern States.

Recent laws have greatly restricted the immigration of the Chinese. As a rule, they have no political rights in this country.

Thus it will be seen that while all the people in a State have civil rights, less than half have political rights.

CHAPTER VI

ELECTIONS

1. When Held—For the convenient exercise of political power, as well as for the purposes of government generally, the territory of a State is divided into districts of small extent. A State is divided into counties, and these are divided into towns or townships. The people of every county and every town have power to manage their local concerns. The electors of the State meet every year in their respective towns for the election of officers. Governors in most of the States are elected every two or four years, but many officers elected by the people are chosen every year. All the electors of the State may vote for State officers, but only residents of the respective towns or counties can vote for the town and county officers. In most States the general State election is held in October or November.

2. Inspectors of Election—Elections are conducted by persons designated by law, or chosen by the electors of the town, for that purpose. It is their duty to preserve order, and to see that the business is properly done. They are usually called *judges of election* or *inspectors of election*. Persons also (usually two) serve as clerks. Each clerk keeps a list of the names of the persons voting, which is called a *poll-list*. *Poll*, which is said to be a Saxon word, signifies *head*, and has come to mean person. By a further change it has been made to signify an election or the place where the voting is done.

3. Voting—The polls, *i.e.*, the voting places, are generally open one day, from sunrise to sunset. The inspectors receive from each voter a ballot, which is a piece of paper containing the names of the persons voted for, and the title of the office to which each of them is to be elected. The voting in most of the States is by ballot, but in one or two it is *viva voce*; that is, by the elector speaking the name of the person for whom he votes.

4. Challenging—If no objection is made to an elector's voting, the ballot is put into the box and the clerks enter his name on the poll-list. If the inspectors suspect that a person offering to vote is not a qualified elector, they may question him upon his oath in respect to his age, the term of his residence in the State and county, and citizenship. Any bystander also may question his right to vote. This is called *challenging*. A person thus challenged is not allowed to vote until the challenge is withdrawn, or his qualifications are either proved by the testimony of other persons or sworn to by himself.

5. Registration—In a few States the voters are registered, especially in the large cities. A list is made some days before the election, of the names of all who present themselves and, upon examination, are shown to be qualified electors; and those only whose names have been registered are allowed to vote on election-day. Thus many interruptions to voting by the examination of voters at the polls, and much illegal voting, are prevented.

6. Canvassing—After the polls are closed, the box is opened and the ballots are counted. This is called *canvassing* the votes. If the number of ballots agrees

with the number of names on the poll-lists, it is presumed no mistake has been made either in voting or in keeping the lists. If there are more ballots than names, in some States the election will be void, in others a number of ballots equivalent to the excess will be drawn out and destroyed. If the election is one for the choosing of town officers, it is there determined who are elected, and their election is publicly declared. The election of county and State officers cannot be determined by the town canvassers. A statement of the votes given in each town for the persons voted for is sent to the county canvassers, who, from the returns of votes from all the towns, determine and declare the election of the officers chosen for the county. To determine the election of State officers, and of such others as are elected for districts comprising more than one county, a statement of the votes given for the several candidates is sent by the several boards of county canvassers to the State canvassers, who, from the returns of votes from the several counties, determine the election of the State officers.

7. Number Necessary—In most of the States persons are elected by a plurality of votes. An election by *plurality* is when the person elected has received a higher number of votes than any other, though such number be less than half of all the votes given. Suppose, for example, three candidates receive 1,000 votes: one receives 450; another, 300; the third, 250 votes. The first, having the highest number, though not a majority, is elected. In most of the States of New England a *majority*—that is, more than one half of all the votes given—is necessary to the election of many of the higher officers. The least number of votes out

of 1,000, by which a person can be elected by this rule, is 501.

8. Objections—Either of these modes is open to objection. When a simple plurality effects an election, 1,000 votes may be so divided upon three candidates as to elect one by 334 votes; or of four candidates, one may be elected by 251 votes, and against the wishes of nearly three fourths of the electors. The objection to the other mode is that if no person receives a majority of all the votes, another election must be held. Numerous trials have, in some instances, been necessary to effect a choice; and the people of a district have remained for a time without a representative in the State or national legislature.

CHAPTER VII

DIVISION OF POWERS OF GOVERNMENT

1. Three Departments—Government is divided into three distinct divisions, or, in other words, sovereign power may be exercised in three directions: in making laws, in enforcing them, and in judging whether particular cases come under certain laws. In all free countries these powers are exercised by three separate departments, called the *legislative*, *executive*, and *judicial* departments. In a monarchy, though they may exist, the other two are more or less under the control of the executive department, the monarch. In this country the three departments exist in every State and are kept distinct from each other.

2. Legislative—The legislative department is that by which the laws of the State are made, and is called

the *legislature*. Its object is to make such laws as are not embodied in the constitution. The constitution establishes not only the form and the departments of government, but also certain broad principles of law, which the legislature cannot violate; but it leaves to the legislature the making of the particular laws to carry out those principles in detail, and there are many subjects on which the legislature is unrestrained. It would be impossible for a State to adopt, as a constitution, a system of laws that would not need change and addition.

3. Its Divisions—The legislature is composed of two bodies, or houses, as they are called, the members of each being elected by the people. Both must agree to a measure before it becomes a law. In limited monarchies where one branch of the legislature is elective, the other is an aristocratic body, composed of men of wealth and dignity, as the British House of Lords.

4. Executive—The executive department is intrusted with the power of executing, or carrying into effect, the laws of the State. Its principal officer is a governor, who is elected by the people. He is assisted by a number of other officers, some of whom are elected by the people; others are appointed in such manner as the constitution or laws prescribe.

5. Judicial—The judicial department is that by which justice is administered to the citizens. Its duty is to decide the meaning of laws, and whether particular cases fall within them. It embraces the several courts of the State. All judges and justices of the peace are judicial officers.

6. Separation—Experience has shown the propriety of dividing the civil power into these three depart-

ments, and of confining the officers of each department to the powers and duties belonging to the same. Those who make the laws should not exercise the power of executing them; nor should they who either make or execute the laws sit in judgment over those who are brought before them for trial. It would give too much power to one, and would endanger the liberty of the people. Yet in many instances this principle is violated to a degree. In many States the governor must approve a measure before it can become a law, and thus he has legislative power. In some he appoints the judges, and so has judicial power.

DEPARTMENTS OF GOVERNMENT

I. LEGISLATIVE—LAW-MAKING: consists of

- { 1. Senate,
- 2. House of Representatives, and
- { 3. Governor (in many States).

II. EXECUTIVE—LAW-EXECUTING: represented by

- { 1. Governor, and
- { 2. All other executive officers.

III. JUDICIAL—LAW-INTERPRETING AND AP- PLYING: consists of

All the judges.

SECTION II—LEGISLATIVE DEPARTMENT

CHAPTER VIII

LEGISLATURE : HOW CONSTITUTED

1. Two Houses—The legislature of every State in the Union is composed of two houses—a *senate* and a *house of representatives*, sometimes called the *upper* and *lower house*.* In most of the States the two houses together are called the *general assembly*.

a. Senate

2. Character—The senate, as well as the other house, is a representative body, its members being elected by the people to represent them. It is a much smaller body than the lower house, and consists, generally, of from twenty-five to fifty members in the different States. It was designed to be, and is, a more

* Though both are representative bodies, only the lower house is called the "House of Representatives." The reason for this may be: Under the governments of the Colonies, while yet subject to Great Britain, there was but one representative assembly. The other branch of the legislature was called a *council*, consisting of a small number of men who were appointed by the King. After the Colonies became free and independent States, the *senate* was substituted for the old *council*, and the other house kept its old name.

The lower house in the States of New York, Wisconsin, Nevada, and California, is called the assembly; in Maryland, Virginia, and West Virginia, the house of delegates; in North Carolina, the house of commons; and in New Jersey, the general assembly.

select body, composed of men chosen with reference to their superior ability or their greater experience in public affairs.

3. Terms—Senators are chosen for terms of four years in about half the States; in the rest for terms of one, two, or three years. In most of the States in which senators are elected for longer terms than one year, they are not all elected at the same time. They are divided into classes, and those of one class go out of office one year, and those of another class another year; so that only a part of the senators are elected every year, or every two, or three, or four years.

4. Apportionment—This means the division of the State into portions; from each portion its inhabitants elect one senator. Senators are differently apportioned in different States. In some States they are apportioned among the several counties, so that the number to be elected in each county shall be in proportion to the number of its inhabitants. In others they are elected by districts, equal in number to the number of senators to be chosen in the State, and a senator is elected in each district. The districts are to contain, as nearly as may be, an equal number of inhabitants, and sometimes they comprise several counties.

b. House of Representatives

5. Character—This house also is elective, and is a larger body than the senate. It consists, generally, of from one hundred to two hundred members in the different States.

6. Terms—In most of the States members are elected for two years' terms; in the others, chiefly the Eastern States, annually.

7. Apportionment—Since the number of representatives is much larger than that of senators, the districts from which they are elected will, in the same State, be much smaller. Representatives are apportioned among the counties in proportion to the population in each. In some States they are elected in districts of equal population, counties being sometimes divided in the formation of districts. In the New England States representatives are apportioned among the towns.

c. Provisions affecting both

8. Census—The different modes of apportioning members of the legislature have in view the same object—equal representation; that is, giving a member to the same number of inhabitants throughout the State. But in some counties the population increases more rapidly than in others. The representation then becomes unequal, being no longer in proportion to population. In order to keep the representation throughout the State as nearly equal as possible, the constitution requires that, at stated times, the people of the State shall be numbered, and a new apportionment of senators and representatives be made among the several counties according to the number of inhabitants in each county; or if the State is one in which members of the legislature are chosen in districts, a new division of the State is made into districts. This enumeration or numbering of the people is called the *census*, and is taken in some States every ten years, in others oftener. But many States depend on the census which the United States takes every ten years.

9. Qualifications—The constitution also prescribes

the qualifications of senators and representatives. If, as qualifications for an elector, full age, citizenship, and a considerable term of residence in the State and county are properly required, as we have seen (page 26), they must be at least equally necessary for those who make the laws. In no State, therefore, are any but qualified electors eligible to the office of senator or representative. In some States greater age and longer residence are required ; and in some the age and term of residence have been still further increased in the case of senators. The property qualification formerly necessary for members of the legislature, as well as for voters, has been almost entirely abolished.

10. Vacancy—If a member of the legislature dies or resigns his office before the expiration of the term for which he was chosen, the vacancy is filled by the election of another person at the next general election, or at a special election called for that purpose, or in such other manner as the constitution may provide. But a person chosen to fill a vacancy holds the office only for the remainder of the term of him whose place he was chosen to supply.

11. Salary—Each member has a salary, fixed by law.

CHAPTER IX

MEETINGS AND ORGANIZATION

1. How Often—The legislature meets as often as the constitution requires : in about half of the States annually, in the others biennially, or once in two years. A legislative session includes the daily meetings of a legislature from the time of its first assem-

bling to the day of final adjournment. Thus we say the session commenced in January and ended in March. The word *session* has reference also to a single sitting, from the hour at which the members assemble on any day to the time of adjournment on the same day. Thus we say the legislature holds a daily session of four hours; or, it holds two sessions a day, as the case may be.

2. Place—Meetings of the legislature are held at a certain place permanently fixed by law of the State, at which the principal State officers keep their offices. Hence it is called the *seat of government*, or, perhaps more frequently, the *capital* of the State. *Capital* is from the Latin *caput*, the head, and has come to mean chief, or the highest. In this country the word *capital*, applied to a city, now generally indicates the seat of government.

3. Organization—When the two houses have assembled in their respective chambers, and the oath of office has been administered, each house proceeds to *organize*. This consists in appointing proper officers, and in determining the right of members to their seats. Each house is the sole judge of who has been elected to it. The first officer elected is the presiding officer, or chairman, who is usually called *speaker*. The lieutenant-governor, in States in which there is one, presides in the senate, and is called *president of the senate*. In the absence of the presiding officer, a temporary speaker or president is chosen, who is called speaker, or president, *pro tempore*, commonly abbreviated *pro tem.*, which is a Latin phrase, meaning *for the time*.

4. Presiding Officer's Duty—The duty of the person presiding is to keep order and to see that the busi-

ness of the house is conducted according to certain established rules. When a vote is to be taken he puts the question, and when taken he declares the question to be carried or lost. This part of the speaker's business is similar to that of the chairman of an ordinary public meeting.

5. Minor Officers—The other officers chosen by each house are: a *clerk*, to keep a record or journal of its proceedings, to take charge of papers, etc.; a *sergeant-at-arms*, to arrest members and other persons guilty of disorderly conduct, to compel the attendance of absent members, and to do other business of a like nature; also one or more *door-keepers*. The officers mentioned in this section are not chosen from the members of the house.

6. Quorum—The constitution determines what portion of the members shall constitute a quorum to do business, *i.e.*, how many must be present. *Quorum* is the Latin of the English words *of whom*, and has strangely come to signify the *number* or *portion* of any body of men who have power to act. In most States a majority will constitute a quorum; in some a greater number is required, two-thirds or three-fifths.

7. Proceedings Open—Constitutions generally require also that the proceedings of legislative bodies shall be open to public inspection. The doors may be closed against spectators only when the public good shall require secrecy. And that the people may be fully informed of what is done, each house is required to keep and publish a journal of its proceedings.

8. Interruptions—Provision is also made, either by the constitution or by law, against injury or interruption to the business of the legislature. Members may

not, by any prosecution at law, except for crimes and misdemeanors, be hindered during their attendance at the sessions of the legislature, nor in going to or returning from the same. Each house may compel the attendance of absent members. It may for good cause expel a member and punish not only its members and officers, but other persons, for disorderly conduct or for obstructing its proceedings.

CHAPTER X

MANNER OF ENACTING LAWS

1. Power—The legislature of every State has power to enact any law, on any subject, not forbidden by the Constitution of the United States or its own constitution, and not at variance with any law of Congress. In this particular the extent of its power is broader than that of Congress, for the latter can legislate only on the particular subjects named in the United States Constitution. The subjects which the United States Constitution forbids to the State legislatures will be found in a later chapter (page 163). The State constitutions also contain prohibitions meant to restrain the legislature from making oppressive laws, or such as would endanger the people's absolute rights. (See page 15, § 5.) If any laws are passed contrary to these constitutional provisions, they will be void and of no effect.

2. Rules—Constitutions prescribe no method of passing laws. They leave it entirely to the legislature itself. But it would be impossible for such a body to act without some order, and so each legislature estab-

lishes certain rules, which are seldom departed from. But, though ordinarily followed, these rules may be departed from, and the law will be just as valid, provided a quorum is present and a sufficient number vote for it.

3. Governor's Message—When the two houses are duly organized and ready for business, the governor sends to both houses a written communication called a *message*, in which, as the constitution requires, he gives to the legislature information of the condition of the affairs of the State, and recommends such measures as he judges necessary and expedient. The message is read to each house by its clerk.

4. Other Measures—But the measures to which the governor calls the attention of the legislature are but a small portion of those which are considered and acted upon. Many are introduced by individual members. Others are brought into notice by the petitions of the people in different parts of the State. *Petition* generally signifies a request or prayer. As here used, it means a written request to the legislature for some favor—generally for a law granting some benefit or relief to the petitioners. Petitions are sent to members, usually to those who represent the counties or districts in which the petitioners live, and are by these members presented to the house. Laws may be introduced in either house.

5. Committees—The subjects to be acted on by a legislature are very numerous, and if the whole house carefully examined each measure and listened to all the reasons why the measure was necessary it could not finish half its labor. So committees are appointed at the beginning of the session, consisting of from

three to seven members, each committee having charge of some particular subject: such as, the committee on finance, or the money matters of the State, called the ways and means committee; the committee on agriculture; on manufactures; on railroads; on education; and a great many other subjects. As soon as a measure is introduced into the house it is referred to its appropriate committee, to examine into its necessity and report to the house the result of the examination. These committees are so numerous that every member is on at least one or two, and are called *standing committees*, because they continue through the session. When a question arises having no relation to any particular subject on which there is a standing committee, it is usually referred to a *special* or *select* committee appointed to consider this particular matter.

6. Committee Meetings—Committees meet in private rooms during hours when the house is not in session; and any person wishing to be heard in favor of or against a proposed measure may appear before the committee having it in charge. Having duly considered the subject, the committee reports to the house the information it has obtained, with the opinion whether the measure ought or ought not to become a law. Measures reported against by committees seldom receive any further notice from the house.

7. Bills—If a committee reports favorably upon a subject, it usually brings in a bill with its report and recommends its passage. A *bill* is the form or draft of a law. Sometimes it is prepared in correct form before it is introduced into the house or referred to the committee. In other cases, as, for instance, when

the subject is brought before the house by petition, the committee prepares it.

8. Three Readings—A bill before it is passed is read three times, on three separate days. In some legislatures the rules allow the first and second readings to be on the same day. The first and second readings consist often of merely reading the title or the enacting clause. Then amendments to it may be introduced, and adopted or rejected. Finally, the third reading is had, this time the clerk really reading the bill, except where it is a long one, and the final vote is taken. Debate on the bill is not usually had until after the second reading. There are a great many rules covering every point which may arise, such as the order of business, and when debate shall be allowed; and these rules are usually followed: but sometimes, in cases of exigency, all the rules are suspended and a bill is introduced and passed immediately, without being referred to a committee or even being read.

9. Passage—When the final vote is to be taken, the speaker puts the question: "Shall the bill pass?" If a majority of the members present vote in the affirmative (the speaker also voting), the bill is passed; if a majority vote in the negative, or if the ayes and noes are equal, the bill is lost. In a senate where a lieutenant-governor presides, not being properly a member, he does not vote, except when the ayes and noes are equal, in which case there is said to be a *tie*; and he determines the question by his vote, which is called the *casting* vote. In some States, on the final passage of a bill, a bare majority of the members present is not sufficient to pass it, in case any members are absent. The constitutions of those States require the votes

of a majority of *all the members elected* to each house.

10. Other House—When a bill has passed one house it is sent to the other, where it passes through the same forms of action; that is, it is referred to a committee, reported by the committee to the house, and is read three times before a vote is taken on its passage. This vote having been taken, the bill is returned to the house from which it was received. If it has been amended, the amendments must be agreed to by the first house, or the second must recede from its amendments, or the amendments must be so modified as to secure the approval of both houses, before the bill can become a law.

11. Veto—But in many of the States a bill, when passed by both houses, is not yet a law. As the two houses may concur in adopting an unwise measure, an additional safeguard is provided against the enactment of bad laws, by requiring all bills to be sent to the governor for examination and approval. If he approves a bill, he signs it, and it is law; if he does not sign it, it is not a law. In refusing to sign a bill, he is said to *negative* or *veto* the bill. *Veto*, Latin, means *I forbid*.

12. No Absolute Veto—But no governor has full power to prevent the passage of a law. If he does not approve a bill, he must return it to the house in which it originated, stating his objections to it; and if it shall be again passed by both houses, it will be a law without the governor's assent. But in such cases greater majorities are generally required to pass a law. In some States a majority of two-thirds of the members present is necessary; in others, a majority of *all the members elected*. In some States if the governor does not return

a bill within a certain number of days, it becomes a law without his signature and without being considered a second time.

13. Taking Effect—Laws become operative the minute the last act is done; in those States where the governor must approve them, the minute he signs his name, unless the law itself provides otherwise. But this would often create great hardship, for one might violate a law before he had time to hear of it. Therefore constitutions often provide that a law shall not take effect for some days after its passage, or the law itself may so provide.

SECTION III.—EXECUTIVE DEPARTMENT

CHAPTER XI

STATE OFFICERS

1. Classification—The executive officers of a State may be divided into two classes: those whose duties relate to the whole State, as the governor or the attorney-general, and those whose duties relate only to some particular portion of it, as the sheriffs. The first class are elected by all the people of the State, and have their offices at the capital; the latter are elected by the people of the particular district (county, town, or city), and have their offices there. In this chapter we will treat only of the first class.

2. Governor—The chief executive officer of a State is the governor. In a monarchy the chief executive

officer is the monarch himself. But there is this difference: in a monarchy the monarch is the source of power, and all inferior officers are his agents and responsible to him alone; in a republic the people are the source of power, and inferior officers are their agents, responsible to them with the governor, and not to him. He is called the chief officer because he has the highest duties to perform.

3. Term—The governor is elected by the people, for different terms in the different States. In most States the term is either two or four years; in some New England States it is one year.

4. Qualifications—The qualifications for the office of governor are also different in the different States. To be eligible, a person must have been for a certain number of years a citizen of the United States, and for a term of years preceding his election a resident of the State. He must also be above a certain age, which in a majority of the States is thirty years; and in some States he must own a certain amount of property.

5. Executive Powers—The governor's executive powers and duties are numerous and important. He represents the State in its dealings with other States. He is commander-in-chief of the military force of the State, and can call it out in times of insurrection. He is to take care that the laws are faithfully executed, and may require information at any time from the different executive officers concerning the condition of affairs in their respective departments. He communicates by message to the legislature, at every session, information of the condition of the State, and recommends such measures as he judges necessary and expedient. He may convene the legislature on extraordi-

nary occasions ; that is, when some important matter arises requiring immediate attention.

6. Legislative Powers—In most States the governor has the veto power. (See p. 45, § 11.)

7. Judicial Powers—A governor has power to grant reprieves and pardons, except in cases of impeachment, and, in some States, of treason. To *reprieve* is to postpone or delay for a time the execution of the sentence of death upon a criminal. To *pardon* is to annul the sentence by forgiving the offence and releasing the offender. A governor may also *commute* a sentence, which is to exchange one penalty or punishment for another of less severity ; as, when a person sentenced to suffer death is ordered to be imprisoned.

8. Appointments—The governor also appoints some executive or judicial officers. The power of appointment varies greatly in the different States : in some he appoints all the higher executive and judicial officers, such as the secretary of state, the attorney-general, or the judges of the courts ; in others, those are all elected, and he only appoints some lower officers, such as notaries. He almost never has the power to appoint legislative officers. He also fills vacancies in executive and judicial offices, until the next election, when they occur through death or resignation. He has in some cases the power of removal for misconduct.

These are only the principal powers and duties devolved on the governor. He has many others.

9. Councils—In a few States an *executive council* is elected by the people, whose duty it is to advise the governor. In many cases, as, for instance, appointments, he must obtain their consent.

10. Lieutenant-Governor—In some of the States

this office does not exist.* He has few duties. In most States where the office exists, he presides in the senate, in which he has only a casting vote. The chief object of this office seems to be to provide a suitable person to fill the vacancy in the office of governor in case the latter should die, resign, be removed, or otherwise become incompetent.

11. Assistant Officers—Among the executive officers who assist in the administration of the government, there are in every State some or all of the following: a secretary of state, a comptroller or auditor, a treasurer, and an attorney-general. In some States they are appointed by the governor, in others by the legislature, and in others they are elected by the people.

12. The Secretary of State has charge of the State papers and records. He keeps a record of the official acts and proceedings of the legislature and of the executive departments, and has the care of the books, records, deeds of the State, parchments, the laws enacted by the legislature, and all other papers and documents required by law to be kept in his office.

13. The State Comptroller, in some States called *auditor*, manages the financial concerns of the State; that is, the business relating to the money, debts, land, and other property of the State. He examines and adjusts accounts and claims against the State, and superintends the collection of moneys due the State. When money is to be paid out he draws a warrant on the State treasurer.

14. The State Treasurer has charge of all the moneys of the State, and pays out the same as

*Viz.: Alabama, Arkansas, Georgia, Maine, Maryland, New Hampshire, New Jersey, Oregon, Tennessee, and West Virginia.

directed by law, and keeps an accurate account of such moneys.

15. Official Bonds—Auditors, treasurers, and other officers intrusted with the care and management of money or other property are generally required, before they enter on the duties of their offices, to give bonds, in sums of certain amount specified in the law, with sufficient sureties, for the faithful performance of their duties. The sureties are persons who sign the bond with the officer, and bind themselves to pay the State all damages arising from neglect of duty on the part of the officer, not exceeding the sum mentioned in the bond.

16. The Attorney-General is a lawyer who acts for the State in lawsuits in which the State is a party. He prosecutes persons indebted to the State, and causes to be brought to trial persons charged with certain crimes. He also gives his opinion on questions of law submitted to him by the governor, the legislature, and the executive officers.

17. Other Officers—There are also in some States the following officers: a *surveyor-general*, who superintends the surveying of the lands belonging to the State, and who keeps in his office maps describing the bounds of the counties and townships; a *superintendent of schools* or *superintendent of public instruction*, who attends to many matters connected with the public schools of the State; a *State printer*, who prints the laws and all State papers; a *State librarian*, who has charge of the State library; and others.

CHAPTER XII

COUNTY OFFICERS

1. Reasons for Division—A State is divided into counties,* and each county is divided into towns, townships, or districts.† There are several reasons for this division: for convenience in the legislative, executive, and judicial departments. Some laws may be necessary in some parts of the State that are not needed in others, and which the people of those parts can better make for themselves; and the boundaries must be clearly fixed that it may be known who comes under the regulations or who can make them. So, too, there are many executive officers, such as sheriffs and collectors of taxes, but each must have his jurisdiction confined to particular limits or there would be great confusion. There are many lower courts, too, and the jurisdiction of each must be clearly defined.

2. Origin of County—Counties in England were formerly districts governed by *counts* or *earls*, from

* Counties in the same State are about the same size, and have about the same population; but the counties of one State as compared with those of another vary very greatly as to number, size, and population. In 1892, Massachusetts had 14 counties, Texas 261, and Oregon 31. In Massachusetts there were about 500 square miles in a county, in Texas 1,005, and in Oregon 3,050; in Massachusetts the population in a county was about 160,000, in Texas 8,500, and in Oregon 10,000. Counties exist in every State except South Carolina and Louisiana, where districts and parishes prevail.

† Towns or townships also vary in size, but perhaps a fair average would be from five to ten miles square. Towns do not exist, generally, in the Southern States or the extreme Western States. There the county is divided into districts for special purposes.

which comes the name of *county*. A county was also called *shire*, and an officer was appointed by the count or earl to perform certain acts in the principal town in the county, which was called *shire town*, and the officer was called *shire-reeve*, or *sheriff*. He was a more important officer than the sheriff of a county in this country now is. The court-house and other county buildings are situated at the principal place in the county, and it is called the *county-seat*, or *capital*.

3. Political Importance—In the Southern and extreme Western States the county is the most important political division, and exercises most of the local governmental powers, such as many important powers with regard to the establishment of common schools, regulation of roads, laying and collection of taxes, care of the poor, etc. In New England the town exercises most of these powers, and the county has very little importance. In the remainder—that is, in the Middle and Western States (except those far west)—these powers are divided between the county and town.

4. Corporations—Counties, towns, cities, and villages are *municipal corporations*. Let us see what a corporation is. Persons, in a legal sense, are divided into two classes, *natural persons* and *corporations*. Natural Persons are human beings, as God made them; Corporations are artificial persons, or bodies, created by law. In other words, a *corporation* (also called a *body politic*, or *body corporate*) is an association of persons authorized by law to transact business under a common name and as a single person. The laws of the State give such authority to the inhabitants of counties and towns. The people of a town or county have power,

to some extent, to buy, hold, and sell property, and sue and be sued, as single individuals. Therefore they are corporations. So, also, is the State itself. But there are two kinds of corporations: *public*, or *municipal*, and *private*. Public, or municipal corporations are those organized for purposes of government, such as counties, towns, cities, and villages; private corporations are all others, such as banks, railroad companies, and churches.

5. County Commissioners—We have seen that a county is a corporation, and that corporations have power to act as single persons. But a corporation must act by means of natural persons, *i.e.*, by its agents. The chief agent of a county—that is, the body which exercises the most important corporate powers—is a board of *county commissioners* (usually three). In a few States these powers are exercised by and in the name of the *board of supervisors*, which is composed of the supervisors of the several towns in the county, of whom there is one supervisor in each town. These boards have charge of the county property, and may make orders and contracts in relation to the building or repairing of the court-house, jail, and other county buildings. In those States in which the county exercises more political power than the town, these boards have many powers with regard to schools, roads, taxes, etc. The following are the more important county offices which exist in every State:

6. County Treasurer—There is in each county a *treasurer* to receive and pay out the moneys of the county, as required. There is also, in some States, a county *auditor* to examine and adjust the accounts and debts of the county. The business of county treasurers

and auditors in their respective counties is of the same nature as that of State auditors and treasurers, and they are required to give bonds in the same way. In States in which there is no county auditor, the duties of auditor are performed by the treasurer.

7. Recorder—There is also in each county a *register* or *recorder*, who records in books provided for that purpose all deeds, mortgages, and other instruments of writing required by law to be recorded. In New York and in some other States the business of a register or recorder is done by a county clerk, who is also clerk of the several courts held in the county. In some States deeds, mortgages, and other written instruments are recorded by the town clerks of the several towns.

8. Sheriff—Another county officer is a *sheriff*, whose duty it is to execute all warrants, writs, and other processes directed to him by the courts; to apprehend persons charged with crime; and to take charge of the jail and of the prisoners therein. It is his duty, also, to preserve the public peace; and he may cause all persons who break the public peace within his knowledge or view to give bonds, with sureties, for keeping the peace and for appearing at the next court to be held in the county, and to commit them to jail if they refuse to give such bonds. A sheriff is assisted by deputies.

9. Coroner—There are in each county one or more *coroners*, whose principal duty is to inquire into the cause of the death of persons who have died by violence, or suddenly, and by means unknown. Notice of the death of a person having so died is given to a coroner, who institutes an examination. A jury is summoned to attend the examination; witnesses are examined; and the jury give their opinion in writing as

to the cause and manner of the death. Such inquiry is called a *coroner's inquest*.

10. The District Attorney is a lawyer who attends all courts in the county in which persons are tried for crimes, and conducts the prosecution. As all crimes and breaches of the peace are considered as committed against the State, and prosecuted in its name, this attorney is sometimes called *State's attorney*, or *prosecuting attorney*.

11. Other Officers—There are often other officers in each county; such as, *assessors*, who assess the value of each one's property so that it may be known what tax he shall pay; *collectors of taxes*; a *county surveyor*; a *superintendent of schools*.

12. Elected—County officers are generally elected by the people of the county, for terms of from one to four years. Some of them are, in some of the States, appointed by some authority prescribed by the constitution or laws of the State.

13. Whom They Represent—While the different county officers are alike in this respect, that their jurisdiction extends only to their particular county, and also in this fact, that in their official acts they act as representatives or agents of the people; they differ from each other in this, that while some represent the people of the whole State (and in that sense may be called State officers), others represent only the people of their own county. Thus, when a sheriff arrests a man for crime, it is the State which arrests him by the hand of its agent in that county; when the district attorney prosecutes him, it is the State which is trying him for the crime against itself. (See page 83, footnote.) On the other hand the county commissioners

commonly act only as agents of their county. Some officers may represent the State in some of their duties, and the county in others.

CHAPTER XIII

TOWN OFFICERS

1. Towns—In all the States except those far west and most of the Southern States, each county is subdivided. These subdivisions are called *towns* at the East, and *towns* or *townships* at the West and South. At the West and South a village or city is often called a town. But in this book we shall use the word *town* as meaning an organized subdivision of a county. In those States where towns do not exist, the county exercises all the local governmental powers and has all the necessary officers. It must be remembered, then, that this chapter does not apply to all the States.

2. Chief Officer—Since a town is a corporation, it must, like a county, have some one to represent it and act for it. The principal officer, or board, whose duty this is, has different names in different States. In the New England towns there are what are called *selectmen*, three or more in each town. In a few States there are *trustees of townships*. In a few other States there is in each town one such officer, called *supervisor*. The powers and duties of these officers are the most numerous and important in New England, where the town is the most important division of the State. They have duties with regard to taking charge of the town property, laying out and repairing roads, collecting taxes, providing for the poor, etc. In those States

where the county is the more important division, the town officers have fewer of these duties, and the county officers have more.

3. Treasurer—There is often a *town treasurer*, with duties, in his own town, analogous to those of a county treasurer.

4. Town Clerk—A *town clerk* in each town keeps the records, books, and papers of the town. He records in a book the proceedings of town meetings, the names of the persons elected, and such other papers as are required by law to be recorded.

5. Constables—There are several *constables* in each town. Their principal duties are to serve all writs and processes issued by justices of the peace. The business of a constable in executing the orders of a justice of the peace is similar to that of a sheriff in relation to the county courts.

6. Highways—For the repairing of *highways and bridges*, a town is divided by the proper officers into as many road districts as may be judged convenient; and a person residing in each district is chosen, called *overseer*, or *supervisor*, or *surveyor of highways*, whose duty it is to see that the roads and bridges are repaired and kept in order in his district. In some cases a tax is laid for the purpose, and ordinary laborers do the work. In others, each one taxed may work on the road himself a certain number of days, or he may pay the tax, according as he wishes.

7. Overseers of the Poor provide for the support of paupers belonging to the town, who have no near relatives able to support them. In some States there is in each county a poor-house, to which the paupers of the several towns are sent to be provided for; the expense

to be charged to the towns to which such poor persons belonged.

8. Other Officers—There are often in every town other inferior officers: *assessors* and *collectors of taxes* (see Chapter XV.); certain *school officers*; *fence viewers*, who settle disputes as to division fences; *pound keepers*, who take charge of stray animals; *sealers*, who keep correct copies of the standard of weights and measures; and others.

9. Elected—Most town officers are elected by the electors of their respective towns at the annual town meetings, for terms of one year.

10. Town Meetings—These are meetings of the electors held once a year in every town for the election of town officers and for certain other business. They exist only in New England and a few other States which have been under the influence of New England. At them the people not only elect officers, but take some share in the government. For instance, they have power to vote what money shall be raised for school purposes, for highways, and other purposes; what salaries shall be paid different officers; what proceedings shall be taken at law; and other powers. This, as far as it goes, is pure democracy. With a county it is different. The people of a county never meet together except to elect officers, and take no part, directly, in the direction of affairs.

CHAPTER XIV

CITIES AND VILLAGES

1. Reasons for Incorporation—A city, or a village,* is a particular portion of a town which has become so thickly populated that a different kind of government is needed from that of the rest of the town. For instance, where there are many people who use the streets, sidewalks will be necessary; and where the houses are near to each other, as in the ordinary village, fire-engines and fire-companies will be necessary to prevent the whole place from being destroyed; and if the population is still more dense, as in a city, many other regulations are necessary—such as, with regard to police, water supply, cleaning the streets, sewers, etc. But towns do not have the power to regulate these things. It is thought best that the people living in those thickly populated portions should do it themselves. The legislature of the State gives them these powers by *incorporating* them into a village or city.

2. Charter—Whenever, therefore, the inhabitants of any portion of a town become so numerous as to require a government with more powers than the rest of the town, they petition the legislature for a law incorporating them into a village, or, if they are very numerous, a city. The law or act of incorporation is usually called a *charter*. The word *charter* is from the

* The word *village* very often means only a collection of houses, or of people living near one another, but in this chapter we shall use the word for an *incorporated village*. In Connecticut and Pennsylvania an incorporated village is called a *borough*.

Latin *charta*, which means paper. The instruments of writing by which kings or other sovereign powers granted rights and privileges to individuals or corporations were written on paper or parchment, and called *charters*. In this country it is commonly used to designate an act of the legislature conferring privileges and powers upon cities, villages, and other corporations.

3. Its Contents—The charter describes the boundaries of the city or village, prescribes what officers it shall have, and what shall be their powers and duties.

4. City Officers—The chief executive officer of a city is a *mayor*. A city is divided into wards of convenient size, in each of which are chosen one or more *aldermen* (usually two) and such other officers as are named in the charter. The mayor and aldermen constitute the *city council*, which is a kind of legislature, having the power to pass such laws (commonly called *ordinances*) as the government of the city requires.* There are also elected in the several wards assessors, constables, collectors, and other necessary officers, whose duties in their respective wards are similar to those of like-named officers in country towns, or townships.

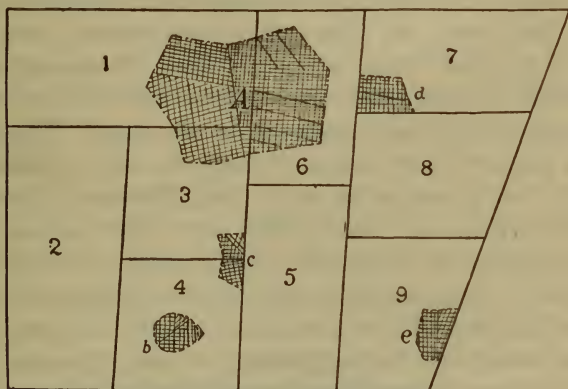
5. Village Officers—The chief executive officer of a village is, in some States, called *president*. The village is not divided into wards, the number of its inhabitants being too small to require such division. Instead of a board of aldermen there is a board of *trustees* or *directors*, who exercise similar powers. The president of a village is generally chosen by the trustees from their own number. In some States incor-

* In some cases there are two boards, in analogy with the two legislative houses of the State.

porated villages are called *towns*, and their chief executive officer is called *mayor*.

6. General Law—The constitutions of some States require the legislature to pass a general law prescribing the manner in which the people in any place may

DIAGRAM SHOWING THE RELATION BETWEEN COUNTY,
TOWN, CITY, AND VILLAGE.



The whole diagram represents a county.

The numbers represent the towns into which it is divided.

A represents a city.

b, *c*, *d*, and *e* represent villages.

form themselves into an incorporated village without a special law or charter.

7. Subject to Laws of State—The inhabitants of cities and villages, however, are not governed alone by laws made by the common council and the trustees. Those laws and regulations relate only to local matters. Most of the laws enacted by the legislature are of general application, and have the same effect in

cities and villages as elsewhere. Thus the laws of the State require that taxes shall be assessed and levied upon the property of the citizens of the State to defray the public expenses, and the people of the cities are required to pay their just proportion of the same; but the city authorities lay and collect additional taxes for city purposes.

8. Corporations—We have seen that the State, counties, towns, cities, and villages are all corporations, and that there are also other corporations, such as banks, railroad companies, etc. Now all corporations are alike in some particulars. They all continue after the persons first composing them are dead. They all have power to buy and sell property, and to borrow money to a certain extent. But they also differ in some respects. A State differs from other municipal corporations in the manner of formation. A State is formed by the people when they adopt the constitution; the other municipal corporations—*i.e.*, cities, towns, etc.—are formed by the legislature. Again, all municipal corporations differ from other corporations in two particulars: their purpose and their membership. Municipal corporations are organized only for purposes of government; the others are organized for other purposes, such as business (banks, insurance companies, etc.), religion (churches), or charity (hospitals, etc.). Of a municipal corporation every one is a member who lives within its limits, whether he wishes to be or not; but in other corporations one only becomes a member by his own choice.

CHAPTER XV

TAXES

1. Reasons for Them—Every government must have the power of providing means for its support. The different State, county, and town officers must be paid salaries ; money is needed for public buildings, such as State-houses, court-houses, jails, etc. ; and there are other necessities. The money which is needed to pay the expenses of administering the government, if the State, county, or town has no permanent source of revenue or income, must be raised by taxation. A *tax* is a sum of money assessed upon the person of a citizen for the use of the government. When each one is required to pay a certain sum, the same for all, it is called a *poll-tax*, or *capitation tax*, being a certain sum on every poll, or head. But, as persons ought to contribute to the public expenses according to their ability, taxes are more just when laid upon the citizens in proportion to the property each one owns. In ordinary speech we say that the property itself is taxed.

2. Land Tax most Common—Both real and personal property * are subject to taxation ; but in the United States most of the taxes are laid upon the land, for the reason that it is always difficult for the assessors to ascertain all the personal property each one owns. Poll-taxes are laid in many States, but they are very small.

* *Real estate*, or *real property*, is land with the buildings and other articles erected or growing thereon. *Personal estate*, or *personal property*, is every other kind of property ; such as, goods, stocks and bonds, money, and debts due from debtors.

3. Assessment—This means valuation. As every person is to be taxed in proportion to the value of his property, it is necessary, first, to make a correct valuation of all his taxable property. For this purpose, the assessor or assessors pass through the town, and make a list of the names of all the taxable inhabitants, and the estimated value of the property, real and personal, of each. If any one thinks his property is valued at too high a rate, he has an opportunity to appear before the assessors and ask to have the assessment reduced. The town assessors then make returns to the proper State and county officers of all the property, and its valuation, in the town.

4. Information—In some States persons liable to taxation are themselves required to furnish lists of all their taxable property, printed blank lists having been previously distributed among them for this purpose. To secure an accurate valuation, the assessors (called also *listers*) may require persons to make oath that they have made a true statement of their property and its value.

5. Exemptions—There are certain kinds of property which are exempt from taxation ; such as the corporate property of the State, of counties, and of towns, including the buildings in which the public business is done, the prisons, jails, asylums, etc., and the lands attached to them ; school-houses and churches, with the lands attached ; burying-grounds, and the property of literary and charitable institutions. But the property of business corporations, as railroad, banking, insurance, manufacturing, and other stock companies, like that of individuals, is liable to taxation.

6. Three Amounts—Before a tax-list can be made

out, showing what each one's tax is to be, it must be known what amount is to be collected in each town. This amount is made up of three parts: first, the sum wanted to pay the expenses of the town for the current year; second, the town's share of the county expenses; and third, its proportionate share of the expenses of the State government, or of what is to be raised for State purposes. In this country the amount that each one pays for State purposes is usually very much less than what he pays for county and town purposes. The ratio of the county to the town tax varies in proportion to the political importance of the county and town. In many States there is no town tax.

7. Apportionment—The apportionment of the amount of the State and county expenses among the several towns is made according to the amount of property in each as valued by the assessors. The State auditor or comptroller, having received from the several counties returns of the value of the property in each county, is enabled to determine its quota of the amount to be raised for State purposes. He sends to the proper officers in each county (county commissioners, or board of supervisors) a statement showing what part of the State tax the county is to pay. The county officers add to each county's share of the State expenses the sum to be raised in the county for county purposes, and apportion the whole amount among the towns in proportion to the value of the property in each. Then the town officers, in turn, add to each town's share of the amount of the State and county expenses the amount to be raised for town purposes, and this gives the whole sum to be collected in the town. This sum

is divided up among the inhabitants of the town in proportion to their property as valued by the assessors, and a tax-list, showing what each one is to pay, is given to the collector. In cities and villages each one's tax includes also his proportionate share of the amount to be raised for city, or village, purposes. Taxes in cities are usually very much higher than anywhere else.

8. Collection—When the collector has received the taxes he pays them over to the town treasurer. The latter retains the portion collected for town purposes, and remits the remainder to his county treasurer. The county treasurer retains the portion collected for county purposes and remits the remainder to the State treasurer. The system of assessment and collection of taxes varies in the different States. The system described in this chapter applies chiefly to the Northern States.

9. Tax Sales—Where a person neglects to pay his tax, means are provided by law to enforce payment. If he is taxed for personal property, sometimes the collector may seize his goods and sell them, and sometimes suit must be brought in the usual way. But if he is taxed for land, a different course is pursued. In a certain sense, the land itself is taxed. If the tax is not paid within a certain time, the proper authorities sell or lease the land for a certain period to any one who will pay the tax. The owner then has the right to redeem within a certain time, generally two or three years, by paying to the purchaser what he has paid for taxes, with interest. The purchaser does not have the right to take possession of the land until the time to redeem has expired.

10. Assessments—*Assessment* has been used in the

sense of valuation. But it is also often used to mean a tax laid in a city to pay for some public improvement; such as, the building of a sewer, the paving of a street, the laying out of a park, etc. In such cases the benefit of the improvement is felt, sometimes wholly, generally chiefly, by those who live near, and therefore they are required to pay for it. For instance, when a sewer is built in a side street, only the property on each side of that street is assessed for it.

11. Indirect Taxes—The taxes that have been described are called *direct taxes*. But there are also *indirect taxes*, so called because, when finally paid, they are not paid directly to the government as a tax, but as a part of the price of something. They include duties which are paid on goods exported from a country or imported into it, on goods manufactured, licenses for carrying on certain trades, or for doing certain things, etc. For instance, if a tax is laid on the manufacture of liquors, the manufacturer adds enough to the price of the liquor to cover the tax, and so the consumer, when he buys, indirectly pays the tax. Only a small portion of the revenue of a State is derived from indirect taxation. The United States Constitution forbids any State to lay import or export duties.

CHAPTER XVI

EDUCATION

1. A Proper Object of Government—The proper object of government is to promote the welfare and happiness of its citizens. For this purpose it must protect the people in the enjoyment of life and the

fruits of their labor. But it should go further, and make express provision for improving the condition of the people, especially the less fortunate portions of them. The prosperity of a state or nation depends essentially upon the education of its citizens. Ignorance tends to make men idle and vicious. On the other hand, education not only teaches them better ways of living, but impels them to follow the better ways, and gives them higher purposes in life.

2. A Political Necessity—But further, we believe that a government by the people is better adapted than any other to promote the general welfare where the people are fitted to govern. But if the people are not properly educated, they are incapable of self-government. Some children are educated at private schools. But very many are unable to pay for the education of their children in that way, and therefore each State has established a system of *common schools*, at which the children of all may be taught at the public expense. These are the schools we shall treat of in this chapter. It is to its common-school system that the United States owes much of its prosperity as a nation. This system has been developed more highly at the North than at the South. But the constitutions adopted in the Southern States since the late civil war have made much more adequate provision for this necessity than existed in those States previously.

3. Support—The schools are supported chiefly by taxation. In some cases those who send their children there have to pay a higher rate than others. But in almost all the States there is provided a school fund, the income from which is applied to aid in their sup-

port. A *fund* is a sum of money, the income from which is set apart for a particular purpose. Thus the interest of a school fund is applied in building school-houses, paying teachers, etc. The whole amount expended on common schools in the United States in 1892 was about \$155,980,800.

4. Creation of School Funds—These were created in the older States by the State's appropriating certain lands owned by it for that purpose. They were, in many cases, largely increased by certain moneys received from the United States. In 1836 there had accumulated in the national treasury about thirty millions of dollars over and above what was needed for the support of the government. By an act of Congress, this surplus revenue was distributed among the States then existing, to be kept by them until called for by Congress. That it never will be called for is now almost certain. Many of the States have appropriated large portions of their respective shares for school purposes. From its having been said to be only *deposited* with the States, this fund is sometimes called the *United States deposit fund*. As to the Western States, at an early period, while most of the territory from which they have been formed was yet the property of the United States, and uninhabited, Congress passed acts by which a certain proportion of the land in every township is reserved for the support of schools therein. By these acts, in some of those States one thirty-sixth, in others one eighteenth of the whole State has been thus appropriated, besides smaller portions granted for the benefit of a university in each State. In States which may be hereafter formed out of existing territories, land will be reserved in the

same way. The whole amount of the permanent common-school funds in the United States has been calculated to be about \$140,000,000. The income from this is applied to school purposes every year.

5. Districts—The towns, or townships, of a State are generally divided into districts of proper size, in each one of which is established a school, to which all the children of the district may go, free of expense. These schools are sometimes called *district schools*, sometimes *common schools*, and sometimes *public schools*. Each district has apportioned to it its share of the income of the school fund, and the rest of the money needed to support the school is raised from the inhabitants of the district or the State by taxation. One or more *trustees* or *directors* are chosen in each district to manage the school affairs.

6. State Superintendent—In many States there is an officer called the *State superintendent of public schools*, or *superintendent of public instruction*. The superintendent collects information relating to the schools; the number of children residing in each district, and the number taught; the number of school-houses, and the amount yearly expended; and other matters concerning the operation and effects of the common-school system. Sometimes he also apportions the money arising from the State funds among the several counties. He reports to the legislature at every session the information he has collected, and suggests such improvements in the school system as he thinks ought to be made. There are officers in each county or town to aid him in this work. There are also officers in each county or town who examine the teachers periodically to see if they are competent.

7. Grades—Public schools are divided into three grades: *primary* schools, for the youngest pupils; *grammar* schools, in which are taught, besides the ordinary, some of the higher branches of study; and *high* schools, for the most advanced, in which are taught the studies necessary for a business education, and frequently the languages and higher mathematics. Many contend that the public should not be taxed to furnish a higher education, but that it should be left to the private citizen. Others maintain that the general good demands that some should be highly educated. But, though many States have high schools, universities, and other educational institutions, supported or aided by the State, the great body of schools in the country still are of the lower grade.

8. Compulsory Attendance—In general, the State does not compel parents to send their children to school, but relies upon their own sense of duty and interest. But in a few States it does, and every child is compelled to go to some school, public or private, a certain portion of every year between the ages of seven and fourteen. And the idea is gaining strength in the country that the interest of the whole people requires that every child should be educated to a certain degree.

9. Normal Schools—These are schools in which persons are trained to be teachers. If a State is to furnish education to its citizens, it must provide suitable educators, and therefore most States have established one or more of these schools. They are free to any one, but in return the person taught must serve a certain length of time (two or three years) as a teacher in the common schools of the State. In that way he pays for his education.

CHAPTER XVII

PUBLIC INSTITUTIONS

1. Duty of Government—We have seen that a government ought to provide means not only for the protection of the lives and property of its citizens, but also for their education. But there are further duties which it owes to its citizens. It ought to furnish protection and aid to those who are unfortunate, the insane, the blind, orphan children, and others who are unable to care for themselves. So, too, if there is any great enterprise in which all the people of the State are interested, but which is too large or too costly to be carried on by private individuals, the State should render aid. Again, a State should exercise some control over the operations of corporations having large powers, such as railroads and banks, in order to prevent fraud upon the people. These duties are important functions of the executive department.

2. Asylums—Every State establishes and supports some of these for the insane, blind, deaf and dumb, inebriate, orphans, and others. At them support and medical aid are furnished to such as have no means of providing for themselves. Counties, towns, and cities often maintain institutions of the same kind.

3. Canals—These do not exist in all the States, and in some they are constructed and managed by private corporations. But in others they are State works, built by the State and managed by officers elected by the people. New York, Pennsylvania, and Ohio have many. Their object is to furnish cheap trans-

portation, and at one time they were considered of vast importance, but railroads have in a great measure taken their place. Where the State undertakes such an enterprise, very often a fund is provided by the State, the income of which is applied to the object, and the United States increases this fund by grants to it of public lands, because the canal is a benefit not only to the people of the State, but also to all the people of the Nation.

4. Railroads—These are seldom State works, but they often receive aid from the State in the form of money lent them, public land granted to them, or State guaranties of their bonds. In a certain other respect all railroads are aided by the State. The property which a railroad company requires very often cannot be purchased, as the owners will not sell, and no person or corporation has, in itself, the right to compel them to sell. But a State has the right to take any one's property for public use on paying its value. This is called the right of *eminent domain*, and this right the State delegates to the railroad company for the time being. Appraisers are appointed who value the land, and on payment of that price the company takes it. The land necessary for a canal is acquired in the same way.

5. Control of Corporations—The State generally exercises some control over certain corporations which, like railway or canal companies, banks, and insurance companies, have large powers and privileges. This is to prevent their being used to the fraud and injury of the public. In some States there are departments, such as the *bank department*, or the *insurance department*, all subordinate branches of the executive depart-

ment, which are required to exercise supervision over the corporations belonging to their department within the State. They collect information with regard to them, their property and business, by means of examinations and of annual reports which the corporations are required to make, and this information is published. When State banks issued bills (which were only their promises to pay money), they were often required to deposit a certain amount of property with the State to secure those who used their bills as money against loss. So, too, insurance companies are sometimes required to make deposits with the government to secure their policy-holders. There are other ways in which a State exercises control over corporations.

6. State-Prisons—These are prisons maintained by the State, in which criminals convicted of the higher crimes are confined. The county jails are for the lower grades of criminals. Convicts are forced to work while confined. In many States their labor is leased by the State to certain contractors, who pay the State as for so many laborers. Thus State-prisons are sometimes rendered self-supporting.

7. State Debts—Very often the public works undertaken by a State require more money than can be conveniently raised at once by taxation. So, too, perhaps the chief benefit is going to accrue, not to people living at the time the work is done, but many years later, and therefore posterity should bear some share of the burden. In such case the State borrows the money and issues its bonds for it, also called *State stock*. Counties, towns, and cities, in the same way, often incur debt and issue bonds for public works. But there is this difference: counties, towns, and cities may

be sued in the courts, but there is no way for a private individual to force a State to pay its debts. Such refusal to pay is called *repudiation*, and several of the States have repudiated their debts in part. For the reason that there is no remedy, repudiation is the more dishonorable. In the late Civil War the Southern States contracted large debts, but these the United States Constitution forbids them to pay. No government could recognize as just, or allow to be paid, if it could prevent it, any debts incurred in a rebellion against it.

CHAPTER XVIII

MILITIA

1. Meaning of Militia—Every nation has its military force to resist foreign enemies and crush rebellion. It consists of two portions, the *standing army* and the *militia*. The standing army is all the time organized, equipped, and drilled, and its members have no other occupation. The militia consists of all the other able-bodied men in the nation (between certain ages), but it is not called into service except in time of war or insurrection. In this country the Nation has a small standing army, and its militia consists of the militia of all the States. The States have no standing army, but each has its militia.

2. Of Whom Composed—The militia of a State consists of able-bodied male citizens of the United States between the ages of eighteen and forty-five years who reside in the State, except such as are exempt by the laws of the State and of the United States. Persons exempt by the laws of the State are

generally members of the State legislative, executive, and judicial departments, clergymen, teachers, physicians, firemen, and members of military companies who have served a certain time.* Persons exempt by United States laws are members of the national legislative, executive, and judicial departments, pilots, mariners, and a few others.

3. Commander-in-Chief—By the constitutions of the several States, the governors are made the commanders-in-chief of the militia of their respective States. The governor has power to call it out in time of insurrection or rebellion,† and when called out he exercises the usual powers of commander over it. He cannot, however, send any member out of the State without his own consent.

4. Organization—The militia, when organized, is divided in the usual way into brigades, regiments, companies, etc., with the usual officers: adjutant-general, colonels, captains, etc. In some States the officers are appointed by the governor or the legislature; in others they are elected by the men they are to command. But in most of the States the militia remains practically unorganized.

5. Training—For many years after the Revolution, when the militia was more or less organized all the time, it was called out annually in each State for the purpose of training; but these annual trainings were seen to be of so little value that they gradually fell

* In many States those, also, are exempt who have conscientious scruples as to whether war is ever right, such as the Quakers.

† An *insurrection* is an attempt of persons to prevent the execution of a law. *Rebellion* generally means nearly the same; but more properly it signifies a revolt, or an attempt to overthrow the government to establish a different one.

into disuse. At present the militia in this country is not much more, practically, than an imaginary body, and the great body of the people have no military duties to perform.

6. Volunteer Regiments—But occasions do arise when it is necessary for a State to have some organized, equipped, and drilled force at hand. This necessity is supplied by the volunteer companies, or regiments, existing in most of the States. These organize themselves, elect their own members and officers, select their own uniform, and the branch of the service to which they will attach themselves. The State usually grants them more or less aid, in the way of arms, armories, etc. When organized, they come under the military laws of the State, and are subject to orders of the commander-in-chief, in the same manner as the militia is, and he can call them out when necessary. These regiments are called in some States the *national guard*, and popularly they are called the *militia*.

7. United States Militia—We have said the militia of the United States consisted of the militia of all the States. The President has power to call it out at times when the standing army is not sufficient, and when so called out it passes out of State control and under that of the United States. But this refers to the unorganized militia. Over the volunteer regiments spoken of in the preceding section the United States has no control. The national government will probably never call out the unorganized militia, but will rely on the formation of volunteer regiments. In the late Civil War most of the United States army was composed of volunteer regiments formed in the loyal States, and then mustered into the United States service.

SECTION IV.—JUDICIAL DEPARTMENT

CHAPTER XIX

COURTS

1. Necessity—The judicial department consists of the courts of a State. We have seen that the legislative department makes laws and the executive department carries them out; but there is one other function of government which properly comes in between the making and the execution of the law. This is its application to particular cases when disputes arise. Very often in a particular case it will be hard to tell what the truth is, as one party will say one thing and the other another; and again one side will claim that the law does not include his case, and the other side will claim that it does. These points must be decided before the law can be executed. The executive department might decide them, but justice is more likely to be done if the one that decides has nothing else to do with the case. For this reason the separate judicial department is established. The higher courts of a State are usually established by its constitution, the lower courts by the legislature.

2. Diversity—There is great diversity among the States in the names and powers of the different courts. No two States are exactly alike. But the following sketch gives a general idea of the judicial system prevailing in most of the States.

3. Court for the Trial of Impeachments—This is the name applied to the upper house of the legislature

when trying a public officer for malfeasance (*i.e.*, corrupt conduct) in office.* *Impeachment* is the formal act of the lower house by which it makes the charge against him.† Generally the lower house has the sole right of impeachment, and the upper house the sole right to try impeachments. On such trial the upper house is in reality a court.‡

4. Supreme Court—This is the name usually given to the highest court—of which there is only one—in the State. It consists of several judges (very often three), and has usually only appellate jurisdiction.§ Appeals may be taken to it in both civil and criminal cases,|| from the next lower—the Circuit—courts.

5. Circuit Courts ¶—Of these there are generally a

* As, if a governor, for money offered him, should approve and sign a law ; or a judge should, for money or from some other selfish or personal motive, give a wrong judgment

† It must be remembered that impeachment is not the conviction of the offence, but only the accusation. It is analogous to an indictment by a grand jury. (See page 87.) It may happen, therefore, that an officer is impeached and afterward acquitted on the trial, as President Andrew Johnson was in 1868.

‡ This practice has come from Great Britain, where the impeachment is made by the House of Commons, and the House of Lords is the High Court of Impeachment.

§ The word *jurisdiction* is from the Latin *jus*, law, and *dictio*, a pronouncing or speaking. Hence the *jurisdiction* of a court means the class of cases in which it has power to pronounce the law. A court is said to have *original* jurisdiction when the case may originate (be commenced) in it ; it has *appellate* jurisdiction when it may hear the case on appeal from a lower court.

|| *Civil* cases are those between private parties for debt or for some injury to person or property. *Criminal* cases are those in which the State seeks to punish one for some criminal offence.

¶ They derive their name from this circumstance : Each court has

number (from ten to thirty) in every State, one for each district into which the State is divided. In many States they are called *district courts*, because there is one in each district; in a few they correspond to the *superior* courts, so called because they are of higher grade than the justices' courts. They have original jurisdiction, in general, of all classes of cases, both civil and criminal, and are the courts in which the great body of trials are had. They also hear appeals from the lower courts.

6. Justices of the Peace—In each town, or similar division, there are usually several of these officers. Each justice holds court, and has power to try civil cases which involve small amounts (in some States it must be less than \$100, in others less than \$50), and to try persons who have committed small offences. They also have important powers with regard to arresting and examining those accused of higher crimes. (See page 88.) In many States they have executive duties also.

7. Probate Courts—There is usually one of these in every county, composed of a single judge. They are quite different in character from the courts already described. Their powers and duties relate to the estates of deceased persons, to see that they go to the

its district, including several counties, and as the law usually requires, for the convenience of suitors, that the court be held once or twice a year in each county, the judges travel from one county to another.

In some of the States of New England this system of courts does not exist. The highest court performs their duties, having both original and appellate jurisdiction. It will be noticed that New England is different from the rest of the country in many of her political institutions.

persons entitled to them. They take proof of wills and empower executors to act.* Where a person dies without a will the probate court appoints an *administrator*, who distributes the personal property (for distinction between personal and real property, see page 63) among the relatives to whom it belongs by law.† It has power to remove the executor or administrator if he does not do his duty ; to settle his accounts ; and decide disputes which arise, as to the distribution of the estate. Probate courts also take charge of the estates of minors whose parents have died, and appoint guardians for them. For this reason they are sometimes called *orphans' courts*. Appeals may be taken from these courts to the Supreme Court, or sometimes to the Circuit Courts.

8. Courts of Chancery exist in several States. They have power to grant certain kinds of relief that, in the States where they exist, the other courts can not ; such as compelling a man to perform a contract, instead of awarding money as damages for his not doing it, or granting an injunction against one's doing an unlawful act. These are also called *courts of equity*. It is unnecessary to enumerate their powers, as in most States they do not exist, and there the other courts have all their powers.

9. Other Courts—In some States there are other

* A will is a writing by which a person directs to whom his property shall be given after his death. The Latin *probatum* means proof, from which the courts derive their name. An *executor* is a person appointed in a will to carry out its provisions.

† An administrator has no jurisdiction over the land owned by the deceased that the heirs can take possession of without any authority from the court. An executor, in general, executes the will both as regards personal and real property.

courts with various powers. *County courts*, or *courts of common pleas*, exist in some, having jurisdiction in civil cases, somewhat higher than justices' courts; *courts of sessions* and *courts of oyer and terminer*, where they exist, are courts of criminal jurisdiction; *police courts* are often established in cities with jurisdiction to try the lower criminal offences; large cities generally have additional courts.

10. Elections and Terms—Judges are sometimes elected by the people, sometimes by the legislature, and sometimes appointed by the governor. The terms of office vary, being generally six to ten years in the higher courts, while justices of the peace are elected or appointed every one or two years. In a few States (in New England) the judges of the highest court hold office for life, or until seventy years of age. Like legislative and executive officers, they receive salaries fixed by law.

CHAPTER XX

LEGAL PROCEEDINGS

a. Impeachment

1. Impeachment—A complaint against the officer having been brought formally before the lower house of the legislature, it votes whether he shall be impeached or not, and if it is decided that there are sufficient grounds for the charge, *articles of impeachment* are prepared and delivered to the upper house, and a committee of *managers* is selected from the members of the lower house to conduct the prosecution.

2. Trial—The upper house (senate) then convenes

as a court, the accused person is summoned to answer the charge, and a time is fixed for the trial. The trial is conducted in much the same way as a trial in other courts, and at the close the senate votes upon his guilt, a two-thirds vote being generally required to convict. If convicted, the court may remove him from office, or disqualify him to hold any office in the State, for a time, or for life; or may both remove and disqualify him. This court can pronounce no other sentence. But if the act committed is a crime, the offender may also be indicted, tried, and punished in a court of justice.

b. Proceedings in Ordinary Civil Cases

3. Parties—In both civil and criminal cases the party suing is called the *plaintiff* (*i.e.*, the one complaining), and the party sued the *defendant* (*i.e.*, the one defending himself).*

We will now give a sketch of the ordinary steps in a civil action in their order.

4. Summons—Except in the lowest courts, all the proceedings in a lawsuit are taken by means of written papers. This is that they may be preserved. The first paper is ordinarily a *summons*. This is a writ issued by the court at the instance of the plaintiff, and

* In a criminal case the State is the plaintiff, and the accused the defendant. The State—*i.e.*, the whole people—are the ones injured by a crime. For example, in New York State the title of a criminal case is "The People of the State of New York against John Smith." Also, the person against whom the offence is committed has his civil remedy, a suit for damages, against the offender. So that in the case of a criminal offence (for instance, assault and battery) the injured party can sue the offender for damages, and the State can punish him at the same time.

served upon the defendant, summoning him to appear in court. Generally this appearance is made not by coming into court in person, but by the defendant's attorney* filing a notice in the clerk's office. If he does not appear within a certain time, the plaintiff may take judgment and issue execution immediately. (See page 86.)

5. Pleadings—If the defendant appears, the plaintiff is then required to file or serve his *declaration* or *complaint*, setting forth what he claims, and the facts on which he bases the claim. The defendant then files or serves his *plea*, or *answer*, or *demurrer*,† setting forth his defence; that is, the reasons why he thinks he should not be compelled to do what the plaintiff demands. These papers are called the *pleadings*. Sometimes other papers are necessary. If the pleadings agree as to the facts, the matter is then presented to the court, and it makes its decision, without—what is popularly called—a trial. But if the pleadings do not agree as to the facts—if, for instance, the plea denies any fact the declaration sets out—this dispute must be settled by a trial.

6. Jury—Trials may be had before the court alone, but in many cases either party may claim the right to have disputed facts decided by a *jury*.‡ In the higher courts a jury consists of twelve men; in justices' courts, of six. At every term of court (except in jus-

* In this connection an *attorney*, or *counsel*, is a lawyer who conducts a lawsuit for a person. In a broader sense, attorney often means an agent to transact any business.

† These words have different meanings, unnecessary to state here.

‡ So important is this right considered that it is guaranteed to every one, in certain cases, by most of the State constitutions. It was derived from England, where it has been enjoyed many centuries.

tices' courts) a number of men residing in the county are summoned to attend court to serve as jurors during the term, which lasts one or two weeks. From these the jury in each particular case is chosen by lot.

7. Trial—As soon as the pleadings are filed or served either party may summon the other to trial. If either party does not appear at the trial, the other may have judgment against him. If the witnesses are unwilling to come, a subpœna (pronounced *suppēna*) may be issued to them. This is a writ from the court commanding them to attend, under heavy penalties if they do not. A judge always presides at the trial, and decides whether the evidence offered by either side is proper to be admitted in the case. The usual course of proceeding is as follows : The plaintiff's counsel opens the trial by briefly stating what the case is, and then examines such witnesses as he chooses, the defendant's counsel having the right to cross-examine each one, if he thinks the testimony needs to be made clearer ; this examination and cross-examination is made by the counsel asking questions which the witness must answer, and the witness is not allowed to do anything but answer the questions put him ; after the plaintiff has presented all his witnesses, the defendant's counsel, in turn, briefly states what his defence is, and examines his witnesses, the other side cross-examining each one if he desires ; the defendant's counsel then makes an argument upon the case, and the plaintiff's counsel closes with his argument. This ends the trial if it is before the court alone. But if it is before a jury, the judge delivers a *charge* to the jury, giving them a summary of the evidence on both sides and pointing

out to them the points they are to decide. The jury then retire, and deliberate in secret.

8. Verdict—If the jury cannot agree, they are discharged, and another trial may be had; but if they agree, they return to court and announce their *verdict*. This word is from the Latin *verum*, true, and *dictum*, saying. In most States all the members of a jury must agree before a verdict can be rendered.

9. Judgment—After a verdict, or decision of a case by the court, formal judgment is entered (*i.e.*, filed or recorded), and the successful party may add as a part of it what are called *costs*. These are certain sums of money allowed to him to compensate for his expenses. It is considered just that the one who is decided to be in the wrong should pay all the expense.

10. Appeal—If the defeated party thinks justice has not been done, he may appeal to the next higher court. This court does not try the case over again, but simply examines all that was done in the lower court to see if any error was committed. If there was none, it *affirms* the judgment; but if any—even a slight—error was committed, it *reverses* the judgment and grants a *new trial*, which is conducted in the same way as the first. In many cases, if either party is dissatisfied with the decision of the higher court he may appeal to a still higher one, which, in turn, affirms or reverses. In this way a single case may have three or four trials, and five or six appeals, though that is very unusual. Small cases cannot generally be appealed to the highest court.

11. Execution against Property—After judgment is obtained against one, if he does not pay it, a writ called an *execution against the property* may be issued

to the sheriff. This commands him to seize the debtor's property and sell it until he has sold enough to satisfy (*i.e.*, pay) the judgment. Certain articles, such as household goods and clothing, cannot be sold by the sheriff.

12. Execution against the Person—Formerly, in addition to the execution against property, an *execution against the person* could be issued in all cases. This commanded the sheriff to put the debtor in jail until he paid the judgment. But now this extreme remedy is abolished, except in cases where the judgment is obtained for some act implying moral turpitude, such as libel, assault, fraud, etc. In cases of ordinary debt, such as for goods sold, money borrowed, etc., this execution cannot be had.

c. Proceedings in Criminal Cases

13. Indictment *—It is usual for State constitutions to contain provisions requiring that before one can be tried for a criminal offence (except a petty one) he must be indicted by a grand jury. A *grand jury* is a body of citizens (usually twenty-three) summoned in every county several times during the year, to inquire what crimes have been committed in the county. An *indictment* is a formal accusation made by a grand jury against a person that he has committed a crime. The process of indictment is as follows: Some one, usually the district attorney, brings the fact of a crime to their notice; the jury then summon the witnesses† named and examine them; if twelve of the jurors vote that there is sufficient cause for putting him on trial, the

* Pronounced *inditement*.

† No witnesses in favor of the accused are examined by the grand jury.

indictment is drawn up by the district attorney, endorsed "a true bill" by the foreman of the grand jury, and then sent to the court. These proceedings are kept secret, in order to prevent the offender's escape.

14. Arrest and Bail—A warrant may then be issued for the arrest of the accused. If arrested, he may give *bail*, except in cases of crimes punishable by death, like murder. Giving bail consists of giving a bond, by which the bondsmen agree to pay the State a certain sum of money if the prisoner does not appear when he is wanted. The prisoner is then released until his trial. He is then supposed to be in the custody of his bondsmen, and they can arrest him at any time.

15. Examination—But often it is feared that if an indictment is awaited the offender may escape. In such case a complaint is sworn to before a justice of the peace, or other magistrate, and he issues a warrant. When the arrest is made the accused is brought before him, and he makes a short examination of the case. If the evidence is such that he thinks the accused should be tried, he commits him to prison to await the action of the grand jury, or if the case be not indictable, to be tried at the next court. He may then give bail.

16. Habeas Corpus *—If the prisoner thinks that

* This is the most famous writ in the law. It applies to all cases where one person is unlawfully restrained by another, as well as to persons charged with criminal offences. It is often used by a father to gain possession of his child which has been unlawfully taken from him. So important is it considered that State constitutions often provide that the right of having the writ shall not be suspended by the legislature except in time of rebellion or invasion. It protects the right of personal liberty by causing the ground of arrest or restraint to be examined by a competent judge.

his arrest is unlawful, he, or any one in his interest, may apply to any judge of a higher court for a writ of *habeas corpus*. This commands the sheriff, or whoever has him in custody, to bring him before the judge. The case is not tried then, but the judge simply examines the case to see whether the arrest is lawful; that is, whether any crime is charged, or whether there is any proper complaint. If he decides that the prisoner is lawfully held, he remands him to prison; if not, he orders him released.

17. Trial—Due notice being given to the prisoner, and a counsel to conduct his case being furnished him by the State, if he has none, he is brought to trial, and, except in petty cases, has the constitutional right to be tried by a jury. He is first called upon to *plead* to the indictment (*i.e.*, answer it), and he may plead “guilty” or “not guilty.” This is called *arraignment*. If he pleads “guilty,” he is immediately sentenced; if “not guilty,” the trial proceeds. The course of the trial is the same as in civil cases: the opening addresses; examination and cross-examination of the witnesses on each side; the arguments of counsel; the charge; and the verdict (see page 86). After verdict he is discharged or sentenced, according as he is found innocent or guilty.

d. Other Proceedings

18. In Probate Courts—Here the proceedings, though somewhat different, bear a resemblance to those in other courts. Generally there is no contest; but when there is the court proceeds in much the same way as other courts, but without a jury.

19. Special Proceedings—The proceedings already

described do not embrace all the varieties. Courts are applied to for a great many objects, which cannot be enumerated here, and the proceedings taken differ in different classes of cases. But in all legal proceedings the object is to bring all the parties interested before the court, so that it may learn what all claim, and give each one a chance to disprove misstatements made by any one else.

REVIEW QUESTIONS

GENERAL PRINCIPLES OF GOVERNMENT

Necessity for Society and Government

1. Why is civil society necessary to mankind ?
2. From what does the right of private property come ?
3. What is law ? Why necessary ?
4. Why is government necessary ?

Classification of Rights and Law

5. What is a right ?
6. What are political rights ? In what act does a man exercise them ?
7. Name the different classes of civil rights.
8. To what class do religious rights belong ?
9. What is the difference between the moral law and the law of nature ?
10. What is the difference between the moral law and municipal law ? Which is the broader ? Why ?

Forms of Government

11. Name and define the three fundamental forms of government.
12. What is a despotism ?
13. To what form of government does England belong ? Is it absolute or limited ?
14. Explain the difference between a Republic and a Pure Democracy.
15. To which form does the United States Government belong ? To which do the State Governments ? Why ?

STATE GOVERNMENTS

Constitution : Election : Departments

1. What is a constitution in this country ? How many are there here now ?
2. How are constitutions framed ? By whom, and how, adopted ?
3. Name the usual qualifications of voters, as to age, sex, residence, property, character, and color.
4. Describe the manner of conducting an election.
5. What is registration ?
6. What is the difference between a majority and a plurality ? Which, usually, is necessary to elect a person ?
7. How many departments of government are there ? Give the name and duties of each. Why are they kept distinct ?

Legislative Department

8. Name the two branches of the legislature. Which is the larger house ? Which the more select ?
9. Are legislators elected or appointed ?
10. How often do legislatures meet ? What does organization consist of ?
11. What is a quorum ? How many usually constitute it (*i.e.*, what proportion) ?
12. Are the proceedings of legislatures open or secret ?
13. Describe the usual method of enacting laws.
14. What are the purpose and use of committees ?
15. What is a veto ? Its effect ?
16. Is a law valid which is passed with all the formalities which the constitution prescribes, but not according to the rules of the legislature ?

Executive Department

17. Who is the chief executive officer of a State ? How does he differ from a king ?
18. Name his principal powers.

19. Name the other high executive State officers, and their duties.
20. What are the territorial divisions of a State? Their purpose?
21. Which is the more important political division (county or town) in the Southern States? In New England?
22. What is a municipal corporation? Give some examples.
23. Name the principal county officers, and their duties.
24. Which represent the county, and which the State?
25. Name the principal town officers, and their duties.
26. Are officers of the executive department elected or appointed?
27. What is a city? A village? Why are they incorporated?
28. Are inhabitants of cities and villages subject to the general laws of the State?
29. In what particulars do municipal corporations differ from private? The State from other municipal corporations?
30. What is a tax? Its purpose?
31. Upon what kind of property are most of the taxes collected?
32. What are assessors?
33. How is a tax collected when the party will not pay it, in case he is taxed for personal property? How, in case he is taxed for land?
34. Explain why any government should furnish some education to its citizens. Why should we in this country especially?
35. How are common schools supported?
36. Name some public institutions supported by the State.
37. How does a railroad or canal company acquire its land?
38. Explain the difference between militia and a standing army.
39. Of what is a State militia composed? Of what, the United States militia?
40. Who is the highest officer of the State militia?
41. What are volunteer regiments?

Judicial Department

42. What duties does the judicial department perform?
43. What is impeachment? What body tries impeachments? What judgment may it render?
44. What is the difference between a civil and a criminal case? Between original and appellate jurisdiction?
45. Name the three grades of law courts in a State, with the usual jurisdiction of each. About how many courts are there in each grade?
46. What are the duties of probate courts?
47. Describe the progress of an ordinary civil case. Describe the course of a trial.
48. In what civil cases may a defendant be arrested?
49. What is an indictment? A grand jury?
50. Describe the progress of an ordinary criminal case.
51. Who is the plaintiff in a criminal case?

DIVISION III

NATIONAL GOVERNMENT

SECTION I.—ITS ORIGIN AND NATURE

CHAPTER XXI

GOVERNMENT BEFORE THE REVOLUTION

1. The United States a Nation—Besides the State governments that we have described, there is in this country another government, to which all the people of all the States are subject, and which, in its own sphere, has paramount authority over all the State governments. This is the United States Government. The people of all the original States severally adopted another constitution, the United States Constitution. This established another and superior government for all the people, which is therefore called the National Government. In this document the Nation is called "The United States of America." To assist the reader in understanding the Constitution and government of the United States, we shall first give a sketch of the governments which preceded the Revolution, and of the principal causes which led to it.

2. The Colonies—Most of those who study this work probably know that our present State and national governments were not established by the early settlers in this country. The first inhabitants (except the Indians) were *colonists*. A *colony* is a settlement

of persons in a distant place or country, who remain subject to the government of the country from which they came. At the time of the Revolution there existed here thirteen colonies, settled mostly from Great Britain, all subject to the British sovereign, but independent of each other.

3. Colonial Governments—The political rights and privileges enjoyed by the Colonists as British subjects were limited. The people had not then, as now, constitutions of their own choice. There were colonial governments; but they were such as the king was pleased to establish, and, generally, might be changed at his pleasure. These governments were in *form* somewhat similar to that of our State governments. There was what might be called a legislature; also an executive or governor; and there were judges. But of the officers of these departments of the government, only the members of the lower branch of the legislature were elected by the people. The other branch was composed of a small number of men, called a *council*; but they were appointed by the king and subject to his control, as was also the governor, who had the power of an absolute negative or veto to any proposed law. And laws, after having received the assent of the governor, had to be sent to England and approved by the king before they could go into effect. The judges were appointed by the governor. The Colonies were also subject to the laws of the British Parliament.

4. Good Laws Denied—Hence we see that the colonists had no security for the passage of such laws as they wanted. And the consequence was that they were often denied good laws.

5. Oppressive Laws of Parliament—Not only so; many laws enacted by Parliament were very unjust and oppressive. The object of these laws was to secure to Great Britain alone the trade of the Colonies. One law declared that no goods should be imported by the Colonists but in British vessels; if brought in other vessels, both the goods and vessels were to be forfeited to the British Government. Another law declared that no iron wares should be manufactured by the Colonists, so as to compel them to buy of Great Britain. So also the Colonists were permitted to ship to foreign markets such products only as British merchants did not want. They were prohibited from selling abroad any wool, yarn, or woollen manufactured goods, in order to keep the foreign markets open for British wool and manufactures.

6. Duties—One way taken to compel the Colonies to buy of Great Britain alone was to impose heavy duties on goods imported from anywhere else. For instance: the Colonists traded with the West India islands, some of which belonged to Great Britain, some to France, and some to Spain. To secure the whole trade to the British islands, the British Government imposed high duties upon the molasses, sugar, and other articles imported into the Colonies from the French and Spanish islands. The people of the Colonies were therefore obliged to import the above-mentioned goods from the British islands only, while, if there had been no duty, they could have obtained them more cheaply from the others.

7. Taxation without Representation—Not satisfied with these acts, Parliament claimed the right to tax the Colonies “in all cases whatsoever”; and an

act was passed accordingly, laying duties upon all tea, glass, paper, etc., imported into the Colonies; and the money thus collected was put into the British treasury. The Colonists petitioned the king and Parliament to repeal these obnoxious laws, claiming that under a free government there should be no *taxation without representation*; that is, that no legislative body had the right to tax them, unless they had representatives of their own in that body; and they had none in Parliament. These petitions were, however, disregarded.

8. Result—The Colonies resisted the payment of these unjust taxes. Troops were then sent to compel submission, and the Colonists, too, began to arm. Finally, the Congress, which was a body of delegates from the several Colonies, giving up all hope of relief, declared by the Declaration of Independence, on July 4, 1776, the Colonies to be free and independent States, no longer subject to the government of Great Britain. This declaration was maintained by a war which lasted about seven years, when Great Britain gave up the contest and acknowledged the independence of the States; and the *Revolution* was accomplished. By this declaration the thirteen Colonies became thirteen States, independent not only of Great Britain, but also, in most respects, of each other.

CHAPTER XXII

THE CONFEDERATION

1. Continental Congress—As early as the year 1774, the Colonies united in the plan of a congress, to be composed of delegates chosen in all the Colonies, for

the purpose of consulting on the common good and of adopting measures of resistance to the claims of the British Government. The Continental Congress, convened in September, 1774, conducted the affairs of the country until near the close of the war. This body was in reality a revolutionary body. It had nothing to define or limit its powers. But the people relied upon the honor, wisdom, and patriotism of its members, and acquiesced in their acts.

2. Confederation—But it was seen from the first that the Colonies (now States, by the Declaration of Independence) ought to be united, and that a central government with clearly defined powers must be established. With a view to a permanent union the Congress, in November, 1777, agreed upon a frame of government, contained in certain articles, called “Articles of Confederation and Perpetual Union between the States.” These articles were to go into effect when they should have received the assent of all the States. But as the consent of the last State (Maryland) was not obtained until March, 1781, they went into operation only about two years before the close of the war.

3. Defective—As a plan of national government, the Confederation was soon found to be very defective. The union formed under it was a very imperfect one. Having been framed in time of war, it had respect to the operations of war rather than to a state of peace. Its defects appeared almost as soon as it went into effect; and after the return of peace it was found that the union, instead of being strengthened and perpetuated by it, could be preserved only by a radical change.

4. Weakness—The leading defect of the Confederation was its weakness. It consisted merely of a legislature, called the *Congress*, and had no executive or judicial departments. This body could do little more than recommend measures. As it could not legislate directly upon persons, its measures were to be carried into effect by the States; but the States were not in all cases willing, and some of them did at times refuse to do so, and Congress could not compel them. It belonged to Congress to determine the number of troops and the sums of money necessary to carry on the war, and to call on each State to raise its share; but Congress could not enforce its demands. It borrowed money in its own name, but it had no means of raising money to pay it. Hence we see that Congress was dependent for everything upon the good-will of thirteen independent States. It is a wonder that a government of such inherent weakness should bring the war to a successful issue. It was a sense of danger from abroad, rather than any power in the government, that induced a sufficient compliance with the ordinances of Congress to achieve the independence of the States.

5. Taxes and Duties—Congress had no power to levy taxes or to impose duties. These powers were reserved to the States. Even during the war the necessary means to carry it on were with difficulty collected from the States. But after the war not only was money needed for the ordinary expenses of the government, but there was a heavy debt to be paid. Duties were necessary also to regulate foreign trade, but each State imposed such as it saw fit, and there was no uniformity. Hence American commerce was

fast being destroyed through the want of power in the central government to regulate it.

6. Discord between States—Another of the numerous troubles which arose from this imperfect union was the want of peace and harmony between the States. Laws were enacted in some States with a view to their own interests, which operated injuriously upon other States. This induced the latter to retaliate, by passing laws partial to themselves and injurious to the former. The States soon became disaffected toward each other; and their mutual jealousies and rivalries and animosities at length became so great as to cause fears that some of the States would become involved in war among themselves, and that thus the union would be broken up.

7. Attempts at Amendment—In view of these difficulties, attempts were made to change the Articles of Confederation so as to give the Congress more power, especially in the matter of regulating trade; but the attempts failed.

8. Convention of 1786—In January, 1786, the legislature of Virginia proposed a convention of commissioners from all the States, to take into consideration the situation and trade of the United States and the necessity of a uniform system of commercial regulations. A meeting was accordingly held at Annapolis in September, 1786; but as commissioners from only five States* attended, the commissioners deemed it unadvisable to proceed to business relating to an object in which all the States were concerned; but they united in a report to the several States and to Congress, in which they recommended the calling of a gen-

* New York, New Jersey, Pennsylvania, Delaware, and Virginia.

eral convention of delegates from all the States, to meet in Philadelphia in May, 1787, with a view not only to the regulation of commerce, but to such other amendments of the Articles of Confederation as were necessary to render them "adequate to the exigencies of the union."

9. Convention of 1787—In pursuance of this recommendation, Congress, in February, 1787, passed a resolution providing for a convention. All the States except Rhode Island appointed delegates, who met pursuant to appointment and framed the present Constitution of the United States. They also recommended it to be laid by Congress before the several States, to be by them considered and ratified in conventions of representatives of the people.

10. Adoption of Constitution—By this Constitution, as soon as the people of nine States ratified it, it was to go into effect as to the States so ratifying. Conventions of the people were accordingly held in all the States. The ninth State, New Hampshire, sent its ratification to Congress in July, 1788; and measures were taken by Congress to put the new government into operation. North Carolina and Rhode Island, the last States to accept the Constitution, did not send their ratifications until the year after the government was organized.

CHAPTER XXIII

THE UNION UNDER THE CONSTITUTION

1. Confederacy and Nation—The Confederation and the Union under the Constitution were each a union of the States, but they differed vastly from each

other. This difference may be best summed up by saying that the first made a Confederacy, the second a Nation.* Under the Confederation the States, though united as States "in a firm league of friendship with each other," yet expressly "retained each its sovereignty, freedom and independence." The people were citizens of the several States rather than of a consolidated Nation. Under the Constitution the States are no longer sovereign. The Nation is above them, and they can do nothing contrary to the Constitution. They have in many respects surrendered their sovereignty to the Nation for the good of all. If they attempt to withdraw, the Nation can coerce them.† The people of the States are also citizens of the United States. We will give in the following sections the chief differences between the Confederation and the

* A *confederacy* is a league, or compact between individuals, whether persons or nations: a nation, as distinguished from a confederacy, is a people indissolubly bound together as a unit, a single people. One is a combination, the other a consolidation. There is another sense in which the word nation is often used, that of a people, or combination of peoples, having a common central authority, which represents them in all relations with foreign nations. The States were never known or treated by foreign powers as separate nations, and therefore in this sense the whole people were one nation even under the Confederation. Further than this, it may be said that even before the Constitution the whole people, besides being bound together by ties of common parentage and mutual dependence, often acted as a consolidated nation, a single sovereignty instead of thirteen.

† At the time of the late Civil War the Southern States claimed that the Nation was but a Confederation, and that therefore they could withdraw. This they attempted to do, and set up a government of their own, calling it the "Confederate States of America." But—if force of arms can ever settle a logical question—it is now settled that our country is not a mere Confederation, but a Nation.

present Union, which taken together make one a Confederacy and the other a Nation.

2. Name—The document which established the Confederation professed in its name to make nothing but a league between the States, as States, calling itself “Articles of Confederation . . . between the States.” The Constitution, on the other hand, professes to make a union of the people, and not of the States: thus its preamble reads, “We, the People of the United States . . . do ordain and establish this Constitution.”

3. By Whom Adopted—The Articles of Confederation were adopted by the State legislatures, acting for the States, as States; the Constitution was adopted by conventions elected by the people in the several States. By whom they were framed is of little import.

4. Power—But the chief difference between the two was in their power. We have seen that the Confederation had no power except to pass laws, and States and individuals could disobey them without fear of punishment, for it had no executive department to enforce, and no judicial department to judge of, its laws. But the Constitution gives the National Government all necessary powers to enforce obedience to its laws; a complete executive department, with armies and money (or the power to raise them) at its command; and also a judicial department free from State control.

5. State Equality—Again, under the Confederation, as in confederacies generally, the States were equal. They were entitled to an equal number of delegates in the Congress, in which they voted by States, each State having one vote; that is, if a majority of the delegates of a State voted in favor of or against a proposed measure, the vote of the State was so counted;

and a proposition having in its favor a majority of the States was carried. Under the Constitution both branches of the legislature vote *per capita*, the vote of each member counting one, and in the lower branch the representation is according to population, and thus the larger States have more members. The President, too, is elected, not by States, but by a majority vote of the Electors. (See pages 132, 170.)

6. National Government—The government of the Confederation, although sometimes called the National Government, was not really such, nor was it generally so regarded, as appears from the proceedings of the Convention that framed the Constitution. Early in the session of the Convention a resolution was offered, declaring “That a National Government ought to be established, consisting of a supreme legislative, judiciary, and executive.” This resolution was strongly opposed by a large portion of the delegates, because it proposed to establish a *national* government. They were in favor of continuing the Confederation with a slight enlargement of the powers of Congress, so as to give that body the power to lay and collect taxes and to regulate commerce. But the friends of a national government prevailed; and history has proved their wisdom.

7. Federal Union—But although the present government, with its three departments, its powers, and its supremacy over the States, is properly a national government, yet it is not wholly such, but partly national and partly federal; some of the federal features of the Confederation having been retained in the Constitution, as will appear on a further examination of this instrument. Hence the Union is still called,

with propriety, the *Federal Union*, and the government the *Federal Government*.

CHAPTER XXIV

CONSTITUTION OF THE UNITED STATES

[NOTE.—The following is the text of the Constitution and Amendments. It should be studied until the pupil can give the subject and substance of each paragraph. The titles of the articles and sections form no part of the document, but are added here for the purpose of convenience in reference. The large numbers at the left are placed there that the paragraphs may be referred to by number in the rest of the book.]

PREAMBLE

- 1 WE, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

LEGISLATIVE DEPARTMENT

Section 1. Division into Two Houses

- 2 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. House of Representatives

- 3 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States ; and the electors in each State shall have the

qualifications requisite for electors of the most numerous branch of the State Legislature.

4 2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

5 3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose *three*; Massachusetts, *eight*; Rhode Island and Providence Plantations, *one*; Connecticut, *five*; New York, *six*; New Jersey, *four*; Pennsylvania, *eight*; Delaware, *one*; Maryland, *six*; Virginia, *ten*; North Carolina, *five*; South Carolina, *five*; and Georgia, *three*.

6 4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

7 5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

Section 3. Senate

8 1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature

thereof, for six years ; and each Senator shall have one vote.

9 2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year ; of the second class at the expiration of the fourth year ; and of the third class at the expiration of the sixth year ; so that one third may be chosen every second year ; and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments, until the next meeting of the Legislature, which shall then fill such vacancies.

10 3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

11 4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

12 5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

13 6. The Senate shall have the sole power to try all impeachments : when sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief-Justice shall preside ; and no person shall be convicted without the concurrence of two-thirds of the members present.

14 7. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under

the United States ; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

Section 4. Elections and Meetings of Congress

- 15** 1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof ; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.
- 16** 2. The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

Section 5. Powers and Duties of the Houses

- 17** 1. Each House shall be the judge of the elections, returns, and qualifications of its own members ; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.
- 18** 2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.
- 19** 3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.
- 20** 4. Neither House, during the session of Congress, shall,

without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6. Privileges of and Prohibitions upon Members

- 21** 1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.
- 22** 2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

Section 7. Revenue Bills: President's Veto

- 23** 1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose, or concur with, amendments, as on other bills.
- 24** 2. Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their

journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and, if approved by two-thirds of that House, it shall become a law. But, in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bills shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

- 25** 3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States, and before the same shall take effect shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section 8. Legislative Powers of Congress

The Congress shall have power :

- 26** 1. To lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States:
- 27** 2. To borrow money on the credit of the United States:
- 28** 3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes:
- 29** 4. To establish a uniform rule of naturalization, and uni-

form laws on the subject of bankruptcies throughout the United States:

30 5. To coin money; to regulate the value thereof, and of foreign coin; and fix the standard of weights and measures:

31 6. To provide for the punishment of counterfeiting the securities and current coin of the United States:

32 7. To establish post-offices and post-roads:

33 8. To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

34 9. To constitute tribunals inferior to the Supreme Court:

35 10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

36 11. To declare war; grant letters of marque and reprisal; and make rules concerning captures on land and water:

37 12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

38 13. To provide and maintain a navy:

39 14. To make rules for the government and regulation of the land and naval forces:

40 15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

41 16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress:

42 17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same

shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings: And

- 43** 18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

Section 9. Prohibitions upon the United States

- 44** 1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

- 45** 2. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it.

- 46** 3. No bill of attainder or ex post facto law shall be passed.

- 47** 4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

- 48** 5. No tax or duty shall be laid on articles exported from any State. No preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

- 49** 6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

- 50** 7. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, ac-

cept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State.

Section 10. Prohibitions upon the States

51 1. No State shall enter into any treaty, alliance, or confederation ; grant letters of marque and reprisal ; coin money ; emit bills of credit ; make anything but gold and silver coin a tender in payment of debts ; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts ; or grant any title of nobility.

52 2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws ; and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the treasury of the United States ; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II

EXECUTIVE DEPARTMENT: THE PRESIDENT AND VICE-PRESIDENT

Section 1. Term: Election: Qualifications: Salary: Oath of Office

53 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

54 2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress ; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.

The following clause has been superseded by Article XII. of the Amendments :

55 3. The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed, and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President ; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote ; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.

56 4. The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

57 5. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President ; neither

shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

58 6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President ; and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

59 7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected ; and he shall not receive, within that period, any other emolument from the United States, or any of them.

60 8. Before he enter on the execution of his office, he shall take the following oath or affirmation :

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States ; and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.”

Section 2. President's Executive Powers

61 1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States ; he may require the opinion, in writing, of the principal officer in each of the executive Departments, upon any subject relating to the duties of their respective offices ; and he shall have power to grant reprieves and

pardons for offences against the United States, except in cases of impeachment.

62 2. He shall have power by and with the advice and consent of the Senate to make treaties, provided two thirds of the Senators present concur ; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law ; but the Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the Heads of Departments.

63 3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Section 3. President's Executive Powers (continued)

64 1. He shall from time to time give to the Congress information of the state of the Union ; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both Houses, or either of them ; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed ; and shall commission all the officers of the United States.

Section 4. Impeachment

65 1. The President, Vice-President, and all civil officers of the United States shall be removed from office on impeach-

ment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III

JUDICIAL DEPARTMENT

Section 1. Courts: Terms of Office

- 66** 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may, from time to time, ordain and establish. The judges both of the Supreme and inferior Courts shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Section 2. Jurisdiction

- 67** 1. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party, to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects.
- 68** 2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with

such exceptions, and under such regulations, as the Congress shall make.

- 69** 3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section 3. Treason

- 70** 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

- 71** 2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV

RELATIONS OF STATES

Section 1. Public Records

- 72** 1. Full faith and credit shall be given, in each State, to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2. Rights in one State of Citizens of another

- 73** 1. The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

74 2. A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

75 3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor ; but shall be delivered up on claim of the party to whom such service or labor may be due.

Section 3. New States: Territories

76 1. New States may be admitted by the Congress into this Union ; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

77 2. The Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States ; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

Section 4. Protection afforded to States by the Nation

78 1. The United States shall guarantee to every State in this Union a republican form of government ; and shall protect each of them against invasion, and on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

ARTICLE V

AMENDMENT

- 79** The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments ; which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress : provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article ; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI

NATIONAL DEBTS : SUPREMACY OF NATIONAL LAW : OATH

- 80** 1. All debts contracted, and engagements entered into, before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.
- 81** 2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.
- 82** 3. The Senators and Representatives before mentioned,

and the members of the several Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound, by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII

ESTABLISHMENT OF CONSTITUTION

- 83** The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

[Constitution ratified by States, 1787-1790.]

AMENDMENTS

ARTICLE I

FREEDOM OF RELIGION, OF SPEECH, AND OF THE PRESS; RIGHT OF PETITION

- 84** Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

[Adopted 1791.]

ARTICLE II

RIGHT TO KEEP ARMS

- 85** A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

[Adopted 1791.]

ARTICLE III

QUARTERING OF SOLDIERS IN PRIVATE HOUSES

- 86** No soldier shall, in time of peace, be quartered in any house without the consent of the owner ; nor in a time of war, but in a manner to be prescribed by law.

[Adopted 1791.]

ARTICLE IV

SEARCH WARRANTS

- 87** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

[Adopted 1791.]

ARTICLE V

CRIMINAL PROCEEDINGS

- 88** No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger ; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb, nor shall be compelled, in any criminal case, to be a witness against himself ; nor be deprived of life, liberty, or property without due process of law ; nor shall private property be taken for public use without just compensation.

[Adopted 1791.]

ARTICLE VI

CRIMINAL PROCEEDINGS

- 89** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation ; to be confronted with the witnesses against him ; to have compulsory process for obtaining witnesses in his favor ; and to have the assistance of counsel for his defence.
- [Adopted 1791.]

ARTICLE VII

JURY TRIAL IN CIVIL CASES

- 90** In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.
- [Adopted 1791.]

ARTICLE VIII

EXCESSIVE PUNISHMENTS

- 91** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
- [Adopted 1791.]

ARTICLE IX

RIGHTS OF PEOPLE NOT NAMED

- 92** The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.
- [Adopted 1791.]

ARTICLE X

POWERS RESERVED TO STATES

- 93** The powers not delegated to the United States, by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[Adopted 1791.]

ARTICLE XI

SUITS AGAINST STATES

- 94** The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

[Adopted 1798.]

ARTICLE XII

ELECTION OF PRESIDENT AND VICE-PRESIDENT

- 95** 1. The Electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate;—the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the

votes shall then be counted;—the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the Representatives from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

96 2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of Electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

97 3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

[Adopted 1804.]

ARTICLE XIII

SLAVERY

Section 1. Abolition of Slavery

98 Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Power of Congress

Congress shall have power to enforce this article by appropriate legislation.

[Adopted 1865.]

ARTICLE XIV

CIVIL RIGHTS : APPORTIONMENT OF REPRESENTATIVES :
POLITICAL DISABILITIES : PUBLIC DEBT

Section 1. Civil Rights

99 All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States ; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Apportionment of Representatives

100 Representatives shall be apportioned among the several States according to their respective numbers, counting the

whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. Political Disabilities

101 No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

Section 4. Public Debt

102 The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obliga-

tion incurred in aid of insurrection or rebellion against the United States, or any claim for loss or emancipation of any slave ; but all such debts, obligations, and claims shall be held illegal and void.

Section 5. Power of Congress

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

[Adopted 1868.]

ARTICLE XV

RIGHT OF SUFFRAGE

Section 1. Right of Negro to Vote

103 The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

Section 2. Power of Congress

The Congress shall have power to enforce this article by appropriate legislation.

[Adopted 1870.]

SUBJECT ANALYSIS

I. CONSTITUTION

I. LEGISLATIVE DEPARTMENT; [Art. I.]

I. Its Composition ;

- 1. Division into Two Houses. [Sec. 1.]
- 2. House of Representatives. [Sec. 2.]
- 3. Senate. [Sec. 3.]

II. Legislative Regulations ;

- 1. Elections and Meetings. [Sec. 4.]
- 2. Powers and Duties. [Sec. 5.]
(Except law-making powers.)
- 3. Privileges of and Prohibitions upon Members.
[Sec. 6.]

III. President's Veto Power. [Sec. 7.]

IV. Legislative Powers of Congress. [Sec. 8.]

V. Prohibitions upon the United States. [Sec. 9.]

VI. Prohibitions upon the States.* [Sec. 10.]

II. EXECUTIVE DEPARTMENT—President and Vice-President ; [Art. II.]

- 1. (1) Term, (2) Election, (3) Qualifications, (4) Salary,
(5) Oath. [Sec. 1.]
- 2. President's Executive Powers. [Secs. 2 and 3.]
- 3. Subject to Impeachment. [Sec. 4.]

III. JUDICIAL DEPARTMENT; [Art. III.]

- 1. (1) Courts, (2) Term of Office, (3) Salary. [Sec. 1.]
- 2. Jurisdiction. [Sec. 2.]
- 3. Treason. [Sec. 3.]

* This logically does not belong to the division "The National Government," but to "Miscellaneous Provisions," but it is thought best to retain the order of the

MISCELLANEOUS PROVISIONS	{	I. RELATIONS OF STATES; [Art. IV.]
		<div style="display: flex; align-items: center;"> <div style="font-size: 3em; margin-right: 10px;">{</div> <div> 1. Records of one State in another. [Sec. 1.] 2. Rights in one State of Citizens of another. [Sec. 2.] 3. (1) New States, (2) U. S. Territory. [Sec. 3.] 4. Protection of States by Nation. [Sec. 4.] </div> </div>
		II. AMENDMENT. [Art. V.]
		III. (1) NATIONAL DEBT; (2) NATIONAL SUPREMACY; (3) OATH. [Art. VI.]
		IV. ESTABLISHMENT OF CONSTITUTION. [Art. VII.]

II. AMENDMENTS

1. Arts. I.-VIII. Prohibitions on Congress as to Personal Rights.
2. Arts. IX. and X. Rights not named in Constitution.
3. Art. XI. Judicial Jurisdiction.
4. Art. XII. Election of President and Vice-President.
5. Art. XIII. Abolition of Slavery.
6. Art. XIV. (1) Equal Civil Rights, (2) Apportionment of Representatives, (3) Political Disabilities, (4) Public Debt.
7. Art. XV. Right of Suffrage.

Constitution itself. There are some other cases where the true logical order is not followed in the Constitution. The provisions regarding the choosing of officers and impeachment in sections 2 and 3 of Article I. would more properly come in section 5, as they relate to certain powers of the Houses. That regarding revenue bills in section 7 would properly fall in the following section, as it relates to the law-making powers of Congress.

SECTION II.—LEGISLATIVE DEPARTMENT

CHAPTER XXV

HOUSE OF REPRESENTATIVES

1. Preamble—The preamble is an important part of the Constitution. The object of the Constitution was to remedy the defects existing under the Confederation, and some of the clauses of the preamble refer to those defects (1).* We have seen that the Union then was a very imperfect one. Instead of there being “domestic tranquillity,” the States were continually quarrelling. It was impossible to “provide for the common defence” of the country against foreign enemies, or to “promote the general welfare” by broad measures, unless there were a strong central government. Had the Constitution not been adopted and had the States remained independent, it is not probable that the country would have had the unexampled prosperity that it has.

2. Congress—This is the name of the national legislative body, and like the State legislatures it is divided into two Houses, called the Senate and House of Representatives (2). The former represents the States, and the latter the people. The members of the House,† called Representatives, are elected by the people of the States every second year (3). Members

* These numbers refer to the paragraphs of the Constitution. The pupil should turn back to it at each reference.

† The House of Representatives is frequently called simply the “House” when spoken of in connection with the Senate.

of the Congress under the Confederation were appointed by the State legislatures, and for one year.

3. Electors—There was much discussion and difference of opinion in the Convention as to what should be the qualifications of the voters who should elect the Representatives. The qualifications of electors were various in the different States. In some of them owners of property, or tax-payers, in others freeholders* only, were voters. In some, only the latter voted for the higher officers; in a few, suffrage was almost universal. Finally, as a compromise, it was decided that the qualifications should be the same in each State as those requisite for electors of its lower house, as it was presumed no State would object to such a rule (3).

4. Qualifications—A Representative must be twenty-five years of age, must have been a citizen seven years, and must live in the State from which he is chosen (4). The reasons for this will be readily understood. If voters must have certain qualifications, surely those who make laws for them should have higher ones. (See Chap. V.)

5. Number—The Constitution does not limit the House to any definite number of Representatives; it only declares that the number shall not exceed one for every 30,000 inhabitants. Otherwise it might become too large. It requires an enumeration of the inhabitants every ten years; and the next Congress thereafter determines the ratio of representation† and the

* A freeholder is one owning land, either absolutely or during his own or another's life.

† The word *ratio* signifies rate, or proportion. It here means the number or portion of the inhabitants entitled to a Representative.

number of Representatives, and apports them among the States (5).

6. Present Number—The first House of Representatives consisted of sixty-five members, and the ratio was about one to every 50,000 inhabitants. Since then, as the population has increased, Congress has increased the ratio, in order that the House might not grow too large to transact business; but in spite of that the House has grown, until now (1899) it consists of three hundred and fifty-seven members, being about one for every 173,900.

7. Every State Represented—But it may happen (and has happened) that some States have not a population equal to the ratio. In view of this the Constitution provides that no State shall lose its representation in the House, by declaring that each State shall have at least one Representative (5).

8. Apportionment—With regard to how many Representatives the different States should have, the Convention found it difficult to agree. In the Congress under the Confederation, it will be remembered, the States were entitled to an equal number of delegates, and each State had one vote. But now it was proposed to apportion the Representatives according to population. On this point there were two causes of contention. First: The small States opposed it, because it gave them fewer Representatives, and therefore less power in Congress. The large States insisted on it, saying that they ought to have greater power because they had greater interests. Finally the small States yielded with regard to the House of Representatives. Second: The slaveholding (Southern) States claimed that, in reckoning the population for the pur-

pose of apportioning Representatives, slaves should be included ; the non-slaveholding (Northern) States * insisted that only free persons should be included, as the slaves could not vote themselves, and it was unjust to give the free persons extra votes simply because they owned certain property—that being what slaves were considered. The controversy on this point rose so high, and the parties were for a long time so unyielding, that fears were entertained of a sudden dissolution of the Convention.

9. Result—The result was a compromise. The Northern States finally consented that three-fifths of the slaves [the words “all other persons” in section 2 (5) mean slaves] should be counted, and the Southern States consented that direct taxes should be laid on the same basis ; so that the Southern States would have the larger share of Representatives, but would pay the larger share of direct taxes.† But, as it resulted, the advantage, contrary to anticipation, was almost wholly on the side of the Southern States, for very few direct taxes were laid before the late Civil War, and thus they obtained the increased represen-

* Slavery then existed in all the States except Massachusetts ; but as there were very few slaves in the Northern States, they are generally spoken of as if they were at that time non-slaveholding States.

† To illustrate this rule by an example : Suppose a State contained 600,000 free persons and 500,000 slaves. Adding three-fifths of the number of slaves (300,000) to the number of free persons gives 900,000 as the number of the representative population : and the State would have been entitled to *three* Representatives for every *two* that a State which contained 600,000 free inhabitants and no slaves would have. So in apportioning taxes according to population, the State in the case we have supposed would have been obliged to raise *three* dollars for every *two* that it would have been obliged to raise if no slaves had been counted.

tation without the corresponding increase in taxation.

10. Present Rule—The state of things described in the last section with regard to apportionment existed up to the Civil War. The 13th, 14th, and 15th Amendments changed the system. Now Representatives are apportioned in proportion to the total population, whether white or black (100).*

11. Territories—By an act of Congress, every Territory in which a government has been established is entitled to send a delegate to Congress, who has a right to take part in the debates of the House, but not the right of voting there.

CHAPTER XXVI

SENATE

1. Reasons for Two Houses—In this country and in England it is thought best that the legislative body should consist of two houses. If there were only one house it might pass some very harmful or unjust laws, either through undue haste, ignorance, popular excitement, or the undue influence of popular but mistaken leaders. But if there were another house, it would be improbable that the very same influences should exist in both, and thus one house would correct the hasty legislation of the other. And if one house were of a higher grade than the other, composed of wiser men, it is seen that its restrictive influence would be of the greater value.

* The number of Indians not taxed is so small that it need not be considered.

2. Character of Senate—For these reasons the Constitution has established the Senate, and has made it a body of greater dignity than the House of Representatives. The causes which make the Senate the more select body are four in number : (1) It has fewer members ; (2) they are elected by the State legislatures instead of by the people ; (3) the term of office is longer ; and (4) the qualifications are higher.

3. State Equality—In the Senate the States are equal in power, each having two members (8). The Convention readily agreed upon dividing Congress into two branches ; but, as has been observed, it was difficult to settle the mode of representation. The delegates from the large States insisted upon a representation in proportion to population, in the Senate as well as in the House ; and the small States contended for equality in both branches. The debate was long and animated ; and it became apparent that, as in the case of slave representation in the House, there must be a compromise. This was at length effected ; the small States consenting to a proportional representation in the House, and the large States to an equal representation in the Senate.* Thus while the House represents the people, the Senate represents the States, and this is one instance in which the federation principle is retained. (See page 103, sec. 7.)

4. Voting—In the Congress under the Confederation the voting was by States, but the Senate differs

* It will be noticed that in the Convention which framed the Constitution there were many opposing interests, and that compromises were frequently necessary, each State giving up something. It was a spirit of patriotism which caused this, as well as the instinct of self-preservation, for without compromise no permanent union could have been formed, saving the rights of all.

in that respect. There the Senators vote separately, the vote of each Senator counting one, as in the House; and a question is decided by the united votes of a majority of the members, and not by the vote of a majority of the States (8).

5. Term—The period of six years was also the result of a compromise in the Convention (8). The terms proposed varied from three to nine years, or even longer. One object in making it longer than a Representative's term was to obtain a body of men wiser and more experienced than the House would contain. Where a man is to be elected for a long term, greater care will be used in selecting him. A second object was to obtain independence of popular impulses. The Representatives were to reflect the will of the people, and so it was provided that they might be often changed: but the Senators were to serve as a check upon hasty action by the people's representatives, and for this purpose they must feel independent of the people to a certain degree. A long term tends to give this independence. A third object was to check frequent changes in the laws. The oftener a legislature is changed the more changeable and uncertain will be the laws; and uncertainty and change often do more injury than evil laws.

6. Gradual Change—Senators are not all elected at the same time. One-third go out of office every two years (9). In favor of this arrangement are two important considerations. First: It secures to the public at all times the benefit of the experience of at least two-thirds of the body. Whereas, if the terms of all the Senators expired at once, their places might be supplied mainly by new members without the requi-

site knowledge and experience. Second: While a long term is intended to guard against the too frequent changes in the laws, it may also prevent, for too long a time, the amendment or the repeal of bad laws. Such amendment or repeal may be hastened by the election of new members in the place of the one-third who retire every two years.

7. Qualifications—Why these are higher than in the case of Representatives has been explained (see sec. 2). An additional reason for requiring them to have been citizens of the United States nine years is found in the fact that, with the President, they make treaties with foreign nations (62). A Senator should therefore have lived here long enough to have become free from bias in favor of his native country.

CHAPTER XXVII

GENERAL LEGISLATIVE REGULATIONS *

1. Choice of Officers—It is considered important in legislative bodies that each house should have the choice of its own officers, in order that it may have proper control of them. A Speaker not responsible to the House of Representatives (*e.g.*, if appointed by the President) might baffle the will of the entire House. One exception to this rule is that the Vice-President presides in the Senate. The States follow this by having the Lieutenant-Governor preside in the State Senate (7, 12).

* Most of the provisions contained in sections 4, 5, 6, and 7 of Article I. will be easily understood, and many of them are similar to provisions in the State constitutions. We will speak only of a few which require some explanation.

2. Impeachment—Impeachment and its trial have been described before (see page 82). As in the State legislatures, so in Congress, the lower House impeaches and the upper House tries. The officers subject to impeachment by the national House of Representatives are the President, Vice-President, and all civil officers of the United States (not of any State) (65). This means all members of the civil (*i.e.*, not military), executive, and judicial departments of the nation. Thus neither members of Congress nor of the army or navy can be removed in this way. In practice only officials of the highest rank are ever impeached.

3. Meetings of Congress—Congress meets every year, in December (16). But as every second year the entire House of Representatives and one-third of the Senate are elected anew, the two sessions following an election are classed together and called "A Congress." The meeting of Congress in December, 1893, was the first session of the 53d Congress.

4. Rules—Like State legislatures, each House of Congress has its rules, which in most cases are strictly followed. A bill is introduced, referred to its appropriate committee, reported by the committee, read, debated, and passed (or rejected), in substantially the same manner as in State legislatures (see page 44). But at any time either House may set aside all its rules, and pass laws in any manner it sees fit, provided no provision of the Constitution is violated.

5. Salary—In the Convention there was much discussion as to whether it would be wise to allow salaries to members of Congress. On the one hand it was said salaries would tempt unworthy men to intrigue for an election; on the other hand, the worthiest men

might be shut out through poverty if no compensation were allowed. It was decided to allow compensation. The amount is fixed by Congress itself (21).

6. Arrest of Members—Members of Congress (except in certain cases) cannot be arrested when Congress is in session (21). This is in order that the people who elect them may not be deprived of their services.

7. Liberty of Speech—The clause which says that a member "shall not be questioned in any other place" for any speech, means that he shall not be sued, either civilly or criminally, for anything he says in debate (21). This is in order that members may feel the fullest freedom and independence.

8. Revenue Bills—These are bills for raising money for the government, either by direct or indirect taxation. All other laws may originate in either House, but these must be passed by the House of Representatives first (23). The reason for this is that since the people pay the taxes, it is appropriate that the Representatives elected directly by them should propose all such laws.

9. Veto—But a bill having passed both Houses is not yet a law. It must be presented to the President, who is thus a part of the legislative department. There are three ways in which a bill, after having passed both Houses, may become a law: (1) it may be signed by the President; (2) he may neglect to sign it for ten days; and (3) he may return it to Congress within ten days, and each House may pass it a second time by a two-thirds vote (24, 25).

CHAPTER XXVIII

POWERS OF TAXATION

1. Nature of the National Government—Before treating of the several legislative powers we will first speak of a certain characteristic of the General Government in which it differs from the States, and which must be always kept in mind when considering its law-making powers. The United States Government is a government of *delegated* powers; that is, powers which have been *delegated* to it by the States, or the people of the States. It has only such powers as the People have given it, in the Constitution. Hence it is called a government of *limited* powers. The States, on the other hand, existing before the General Government, and possessing entire sovereignty, at least in theory, may exercise all powers which they have not surrendered to the General Government. In other words, their powers are *unlimited*, except so far as they have parted with any of their original powers. Therefore, when the question arises whether the President or Congress have certain powers, we look in the Constitution, and if they are not there granted, they do not exist. But when the question arises, with regard to a State, whether its people have a certain power, we approach it from the other side and say they have the power unless the United States Constitution has received it. Most of the legislative powers of Congress are enumerated in Article I., section 8. The first one grants the power to tax (26).

2. Necessity for the Taxing Power—This is one of

the most important powers of government. A government without the power to raise money hardly deserves the name. Without money it would have no power to enforce obedience to its laws, for it could not pay soldiers or civil officers, and men will not serve without pay. We have seen how the Confederation tried the experiment and failed.* This was one of its errors, corrected in the Constitution.

3. Manner of Taxation—Taxes† may be laid by the General Government in three ways: (1) upon persons directly, as poll or property taxes; (2) upon goods when they are imported into the country from abroad; or (3) upon goods when they are manufactured and used here. This clause (26) would also grant the power to lay export duties—that is, duties to be paid

* See page 98.

† The four words, *taxes*, *duties*, *imposts*, and *excises*, are not used to mean four different things, but only to cover all the usual methods of taxation. These words have not fixed meanings. Some of them have different meanings in different connections. At times some have the same meaning as others. Their most usual meanings when used in connection with one another are perhaps these: *taxes*, direct taxes laid on individuals, either as poll taxes, or taxes in proportion to property (see Chap. XV. for distinction between direct and indirect taxes); *duties*, indirect taxes of all kinds, including taxes on exports, imports, and excises; *imposts*, duties on imports; *excises*, duties on goods manufactured and used here. Another word, *customs*, usually means duties on imports and exports, but in this country, since there are no export duties, it usually means the same as *imposts*.

Duties are *specific* and *ad valorem*. A *specific* duty is a specified sum of money charged upon every yard, pound, or gallon of any commodity. Thus, a duty of ten cents on a pound of tea, or of one dollar on a yard of cloth, or of fifty cents on a gallon of wine, is a specific duty. *Ad valorem* is a Latin phrase, signifying *according to the value*. An *ad valorem* duty is a certain *percentage* on the *value* or *price*.

on goods when sent from this to foreign countries—did not a later provision forbid it (48).

4. Objects—The objects for which taxes may be laid are also enumerated in the same clause (26). Since it is the theory of the Constitution that Congress shall have power over only those matters which affect the whole country, leaving all local matters to the States, so no tax can be laid except for some purpose of interest to all the people of the Nation. But the phrase “general welfare” is very broad.

5. Uniformity—The Constitution is careful to provide that no State shall pay more than its just share of taxes. There are several provisions regulating this. First, direct taxes must be laid in proportion to population (5); second, all indirect taxes which may be laid (*i.e.*, imposts and excises) must be uniform throughout the country (26); third, no export duties can be laid (48). The reasons for the last provision are that a tariff* of export duties which would bear equally on the States would be very difficult to make, since they do not export the same articles, some exporting cotton, others grain, and others manufactures, and that it would constitute a constant cause of irritation between the States. For instance, the Representatives of the cotton and grain States might combine and pass a law laying very low duties on cotton and grain and high ones on manufactures.

6. Taxes which have been laid—Up to the late Civil War very few direct taxes had been laid by the National Government. They were then laid for a few years, but now (1894) there are none. Some excise duties have been and are now laid, chiefly on liquors

* A *tariff* means a list of duties laid.

and tobacco, articles that are not necessary to the people, but are luxuries. During the Civil War the excise duties collected were about equal to the customs. But from the beginning very many duties on imports have been laid, and it is from this source that most of the revenue has been raised.

7. Power to Borrow Money—This is given to Congress for the reasons already described, which justify State debts (page 74, sec. 7) (27). This power was exercised during the war until the national debt nearly reached the sum of \$3,000,000,000. Without this power the government would have been almost helpless, for its regular income would have been wholly inadequate.

CHAPTER XXIX

POWER TO REGULATE COMMERCE (28)

1. Why given to Congress—This was for two reasons: (1) because it was a matter of general and universal interest, and (2) because of the benefits that would flow from uniformity. The need of no power was more deeply felt under the Confederation than the power to regulate foreign trade. We thus see that the power to lay duties comes from two clauses. One (26) gives Congress the power, but only for purposes of revenue. If none should be needed for that purpose, or if the duties laid for revenue were not sufficient to regulate commerce, they might be laid under the other clause (28) to any amount.

2. Nature of Regulation—This regulation is of two kinds: (1) the laying of duties on goods imported from

abroad, for the purpose of protecting the commercial interests of this country; and (2) making regulations which shall tend to render navigation less dangerous. The manner and object of regulating commerce by means of import duties will be seen if we consider the trade of England and America as it was after the Revolution.

3. Retaliatory Duties—England pursued the policy, for her own benefit, of laying heavy duties on merchandise imported there from this country. That injured us, and so, in order to compel her to abandon the policy, we wished to lay duties on articles sent here by the English merchants.* Under the Confederation this was attempted, but as each State could lay what duties it chose, there was no uniformity, and each would try to secure the trade by laying lower duties than the rest. So the Constitution gave Congress exclusive authority over the whole subject, and retaliatory duties were laid.

4. Protection—Another way in which it was

* The effect of these duties may not be quite clear : Suppose the market value of a bushel of wheat in Great Britain to be \$1, and the cost of raising the article here and carrying it there to be (together) \$1. We can then raise it here and sell it there along with the English producer. If now a duty of 40 cents a bushel is laid upon wheat from abroad, we cannot sell it for less than \$1.40, and the English consumer, instead of buying it with this duty added, will buy of the English producer. But, the people of this country being then chiefly agricultural, more wheat was produced here than there was a market for, and the American farmer was dependent on the foreign markets. Being shut out of the English market, the value of our products fell, and we suffered loss. It was thought then that if we retaliated and laid duties on manufactured articles (of which England sent us a great number), and so shut them out, she would be influenced to abandon her duties.

thought duties on imports would protect the commercial interests of the country was in encouraging and protecting the manufacturing interests.* This theory is called *protection*, and is the policy which the country has followed. High protective duties have been laid almost from the beginning, on articles manufactured from cotton, wool, and iron.

5. Free Trade—But it is believed by many that protection is a mistaken policy, at least in this country at present, and that while it encourages manufactures it injures some other interests. The opposing policy is called *free trade*. Its supporters urge that if the yard of cloth can be brought here and sold for less than it can be made here, the people who pay for it lose by shutting it out, and the few manufacturers are the only ones who gain.† The British Government now acts on the policy of free trade.

6. Collection of Duties—Certain places on the coast are designated by the laws of Congress, called

* Suppose foreign cloth of a certain quality is sold in this country for \$2.50 a yard, and cloth of the same quality manufactured here cannot be made for less than \$3 a yard. There would now be no encouragement to any one to engage in the manufacture of such cloth, because, in order to sell it, he must reduce the price to that of the foreign article, which would subject him to a loss of 50 cents a yard. Let now a duty of \$1 a yard be laid upon the foreign cloth, and the price would be \$3.50, and preference would be given to the domestic article, unless the importer should reduce the price of his foreign cloth to \$3; in which case, it is to be presumed, about an equal quantity of each would be consumed, and the duty of \$1 a yard on the foreign cloth would go into the United States Treasury.

† The question of free trade or protection belongs to the science of Political Economy; and it is therefore necessary in a work of this character only to refer to the matter and not attempt to give the arguments used in support of either policy.

ports of entry, and a vessel must first come to one of these, where the master delivers a statement of the cargo to an officer, appointed by the President, called a *collector of customs*. The cargo is then examined, and the duties calculated and paid to the collector. If not paid the collector seizes the goods, which are forfeited to the government.

7. Registry—Another regulation of commerce is that by which a vessel built and owned in this country may be *registered* on the collector's books as an American vessel. As such it has certain privileges which foreign vessels do not have. A foreign vessel is not allowed to engage in the coast trade here. An American vessel, registered, is in all places entitled to the full protection of our government, and if it is taken or injured by foreigners in foreign waters, the United States Government must demand reparation from the government to which they belong.

8. Clearance and Entry—Every time a vessel (foreign or domestic) leaves a port, what is called a *clearance* must be obtained. This is a certificate by the collector that all the fees upon the vessel have been paid, and the law been complied with in all respects. So when a vessel arrives at a port, the master must report its arrival to the collector of the port, deliver up a statement of its cargo and the clearance he received at the port from which he came. This is called *entering* the vessel.*

9. Navigation Laws—Coming now to the second class of regulations of commerce, Congress has passed many laws to render navigation less dangerous. The

* In the coasting trade between ports of the United States, clearance and entry are not required, in general.

following are some of the subjects: providing for light-houses, buoys, signal stations, and life-saving stations along the coast; improving harbors; requiring vessels to take licensed pilots when near the coast; prescribing how many passengers and what provisions shall be carried; quarantine;* and many similar ones.

10. Commerce with Indians—In granting to Congress the power to regulate commerce† “with the Indian tribes,” it was intended to lessen the dangers of war. Murders and war had been provoked by the improper conduct of some of the States. It was believed that by a uniform policy difficulties would be more likely to be prevented. This was more important then than now, when the number of Indians has become so insignificant.

CHAPTER XXX

OTHER POWERS RELATING TO PEACE

1. Citizens and Aliens—The general distinction between them is this: *citizens* are those born in this country;‡ *aliens* are those born in a foreign country, whether living here or in the foreign country. Both

* This means a period of time for which vessels are detained before entering a port, so that they may be examined to see if there is any malignant disease on board. Quarantines are required by the health laws of the States; and by the laws of Congress vessels are to be subject to the health laws of the State at whose ports they arrive.

† Commerce, in a broad sense, as used in this clause of the Constitution, means not only trade by sea and land, but all intercourse.

‡ Prior to the Civil War white people alone were citizens in the Southern States, but now under the 14th Amendment white and black stand on the same basis (99).

Children take the citizenship of their parents.

include men, women, and children. But after living here a certain time an alien may become a citizen. Aliens have not all the rights of citizens. They usually cannot vote (see page 27).^{*} In many States they have not full power to own real estate. In general, they are considered subjects of the nation from which they come, and not of this.

2. Naturalization—But to deny foreigners the rights of citizens after they shall have acquired a fixed residence here, and a knowledge of their civil and political duties, would be illiberal and unjust. The process by which an alien may become a citizen is called *naturalization*. Congress has the power to make a uniform rule (29). The reason for this is that if it were left to the States, a person having become naturalized in one State might, on removing into another, be deprived of the rights of citizenship until he should have been naturalized by the laws of such State. Besides, by the Constitution a citizen of any State is entitled to the privileges of a citizen in any other State (73). Now, after a person is once naturalized, he is a citizen of the United States and also of the State in which he resides at the time (99). By removing to another he becomes a citizen of that.

3. When Allowed—The laws of Congress prescribe that an alien may be naturalized after living in this country five years. The first step is to declare on

^{*} Naturalization and the right to vote are two separate matters, which must not be confused. Not all of those who are naturalized are given the right to vote (*e.g.*, women and children). Although most States do give foreigners the right to vote, when naturalized, still they need not; and some States even allow some aliens to vote. The State regulates voting, the United States naturalization.

oath before a court that it is his intention to become a citizen. This declaration he may make as soon as he arrives, or at any time. After the declaration he must wait two years. After that, the court, if satisfied that he has resided five years in the United States, and one year in the State in which the court is held, may admit him as a citizen. He then, before the court, renounces his allegiance to his old country, and swears to support the Constitution of the United States. But no alien can be compelled to become a citizen against his will.

4. Bankrupt Laws—A *bankrupt* is an insolvent debtor; that is, a person who is unable to pay all his just debts. A *bankrupt law* is a law which, upon an insolvent's giving up all his property to his creditors, discharges him from the payment of his debts. Such laws are designed for the benefit of honest and unfortunate debtors, who, by having the enjoyment of their future earnings secured to them, are encouraged to engage anew in industrial pursuits. The reason the power was given to Congress to pass such laws (29) was that if it were left to the States the object could not be accomplished. No State law could release a debtor from debts to a creditor living out of the State, nor from debts contracted in another State. The dissimilar and conflicting laws of the different States, and the entire want of them in others, had caused great inconvenience. The most recent national bankrupt law was passed in 1898.*

* Four such laws have been passed by Congress. Two of them existed but a year or two. The third was passed in 1867 and lasted until 1878. The reason for this short duration was the general sentiment that it allowed many dishonest debtors to procure a release from their debts.

5. Coinage—The coinage of the money is in every country a prerogative of the government. Congress has several powers with regard to coinage (30). No State can coin money (51). The object here, also, was to make uniformity throughout the country. Exercising these powers Congress has passed laws by which we have a uniform currency throughout the Nation, and the convenient decimal system of dollars and cents, instead of the awkward system of pounds, shillings, and pence which existed before the Constitution. The value of coin has been regulated in different ways: such as, by deciding how much metal (gold or silver) shall be put in a given coin, or what domestic coins foreign coins shall be equal to. The place where money * is coined is called a *mint*. There are several in the country, the principal one being at Philadelphia.

6. Weights and Measures—For the convenience of trade between the States, the weights and measures, like the coinage, should be the same in all the States. Without such uniformity commerce among the States would meet with very great embarrassment. Yet Congress has never exercised the power given it on this subject (30). The States still have the power to adopt their own standard.†

* It must be remembered that coin is not the only money in the country. We have now in use United States notes, national-bank notes, gold and silver certificates, etc. Only coin and the United States notes are legal tender—*i.e.*, if a man wishes to pay a debt he must pay with one of those two, if the creditor insists upon it.

† The weights and measures used throughout the States are, however, substantially the same. In 1836 the United States Government sent to each State a full set of weights and measures, as used in the Custom House, and these have been adopted by the States as their standards.

7. Post-Office—The power of Congress over the mail is one of the most important it has (32).^{*} In every nation the government assumes charge of the Post-office. It is impossible to conceive all the difficulties which might attend the exercise of this power had it been left to the different States. A uniform system of regulations is indispensable to efficiency, and could be secured only by placing this power in the hands of Congress.

8. Protection of Authors and Inventors—This Congress has power to effect by granting *copyrights* and *patents* (33). “Science and useful arts” are promoted by new books and new inventions. But if every man had the right to print and sell every book or writing, without compensation to the author, there would be little to encourage men of ability to spend, as is often done, years of labor in preparing new and useful works. Nor would men of genius be likely to spend their time and money in inventing and constructing expensive machinery, if others had an equal right to make and sell the same. This power is given to Congress for the reason that if the States alone exercised it, no State could punish infringers beyond its own limits. In pursuance of the power here given, Congress has enacted the copyright and patent laws.

9. Copyright—A *copyright* is the sole right to print and sell a book, map, etc. It is obtained by the author by following a few simple requirements, the chief one of which is the mailing of two copies as soon as it is published to the Librarian of Congress.

^{*} A post-road is a road over which the mail is carried. All rail-roads are by law made post-roads, and there are very many others besides.

This secures to the author the sole right to print and sell his work anywhere in the United States for twenty-eight years, at the expiration of which time he may have his right continued for fourteen years longer.

10. Patents—A *patent* is the sole right to make, use, or sell a new invention. It is obtained by the inventor from the government, but there is much more to be done than in the case of a copyright. The Commissioner of Patents superintends the granting of patents. The Patent Office is a part of the Department of the Interior (see page 178). To secure his patent the inventor must send to the Commissioner of Patents a written description of his invention, with drawings and model, and specify the improvement which he claims as his own discovery. If the examiners do not find that the invention had been before discovered, a patent is issued therefor, on the payment of certain fees. This secures to the inventor the sole right to make, sell, or use his invention anywhere in the United States for seventeen years.*

11. Courts—Under the power to establish inferior courts (34) Congress has established a system of courts which will be described later (see page 180).

12. Piracy—Congress (and not the States) has power to define and punish crimes committed on the high seas (35). *Piracy* is commonly defined to be forcible

* In the case of both copyrights and patents, the granting of them is not proof that the book or invention is new. If any one is sued for infringement (*i.e.*, printing the book or using the invention without permission from the one holding the copyright or patent) he may claim that the book or the invention is not new, and if he proves it the court adjudges the copyright or patent to be void.

robbery or depredation upon the high seas. But the term *felony** was not exactly defined by law, consequently its meaning was not the same in all the States. It was sometimes applied to capital offences only; at other times, to all crimes above misdemeanors. The power to define these offences is given to Congress for the sake of uniformity, and the power to punish them, because the States have no jurisdiction beyond their own limits.

13. Offences against the Law of Nations--Nor were these clearly defined. The power to define and punish them is given to Congress (35), because our citizens are regarded by foreign nations as citizens of the United States and not as citizens of their respective States; and therefore the General Government alone is responsible to foreign nations for injuries committed on the high seas by our citizens.

14. District of Columbia—In 1790 this became the seat of government. Over it, and over all the forts, arsenals, etc., belonging to the United States, Congress has exclusive authority† (42). This authority is necessary for the protection of the government. If the seat of government were within the jurisdiction of a State, Congress and other public officers would be dependent on the State authority for protection in the discharge of their duties, and the State might refuse them protection.‡

* Generally used to denote an offense of a high grade, punishable either capitally, or by a term of imprisonment.

† So also with regard to all territory not included within any State (see page 190).

‡ This actually happened to the Continental Congress. It was once, near the close of the Revolution, treated with insult and abuse while sitting at Philadelphia; and the executive authority of Pennsylvania having failed to afford protection, it adjourned to Princeton, in the State of New Jersey.

15. Implied Powers—It is a general rule that where one is granted the power to do a thing, it implies that he shall have power to use all the necessary means to accomplish it. The last clause of section 8 (43) then was unnecessary, for the granting of the “foregoing powers” granted also the power “to make laws necessary and proper for carrying them into execution.” * The reason the clause was added was to satisfy all possible doubt. Under this right of implied powers Congress has passed laws which it has been difficult to refer to their proper clauses in the Constitution, and which have occasioned much discussion; such as laws establishing the national banks, incorporating railroads, purchasing foreign territory (such as Louisiana and Florida), and making the United States notes legal tender. In very many cases the laws passed under implied powers are wider in their scope and more important than those expressly authorized.

16. Other Powers—In other parts of the Constitution other legislative powers are given to Congress. They will be noticed in their order.

* For example: The power “to regulate commerce” includes the power to cause the construction of breakwaters and light-houses, the removal of obstructions from navigable rivers, and the improvement of harbors; for in regulating and facilitating commerce these works and improvements are necessary. So the power “to establish post-offices” implies the power to punish persons for robbing the mail.

CHAPTER XXXI

POWERS RELATING TO WAR

1. Declaring War—Congress alone has this right (36). It is very evident that a single State ought not to be allowed to make war. The power to declare it is justly given to the National Government, because the people of all the States become involved in its evils. In monarchical governments this important power is exercised by the king, or supreme ruler. But here it is entrusted, not to the President, but to the representatives of the people, because the people are they who have to bear the burdens of war.

2. Letters of Marque and Reprisal—These are commissions issued by a government to private persons authorizing them to seize the property of a foreign nation or its subjects, as a reparation for some injury.* Congress has exclusive power to grant them (36, 51). A State should not be permitted to authorize its citizens to make reprisals; for, although such authority, when granted in time of peace, is designed to enable the citizens of one country to obtain redress for injuries committed by those of another, without a resort

* They are sometimes called simply *letters of marque*, and are often issued in time of war, and sometimes in time of peace. When issued, it is generally to the owners or master of some armed vessel, which then goes out and captures the vessels and property of the foreign nation on the ocean. Such a vessel is called a *privateer* (see page 281).

This method of obtaining reparation seems more like retaliation. But many things are allowed in war which are not justifiable at other times. Privateering is not as extensively practised as formerly.

to war, the tendency of reprisals is to provoke rather than to prevent war; and when granted in time of war it is merely one means of carrying on the war. In both cases the National Government alone should have the power to grant the commissions, as it alone has the power to declare war, because the whole country may become involved. The entire subject of war is taken away from the States and given to the Nation.

3. Captures—As a part of its power over war, Congress has power to make rules concerning the property captured in time of war. The general practice is to distribute the proceeds of the property among the captors as a reward for bravery and a stimulus to exertion. The property captured is called *prize*. But proof must be made in a court of the United States that the property was taken from the enemy, before it is condemned by the court as a prize.

4. Army and Navy—So also Congress has power to raise, maintain, and make rules for the government of an army and navy (37–40).^{*} Under the Confederation the Congress could declare war, but could not raise or pay a single soldier (see page 98). A government must have an army, or at least the power to raise one. Without one it is virtually powerless, for not only must a nation be ready to fight foreign foes, but also occasions will arise when its supremacy can be

^{*}The policy of the country has been to maintain a very small army and navy, and undoubtedly much of our prosperity, as compared with other nations, is due to this. In European nations not only do the people have to bear the burden of an immense standing army, but in many of them several years of the best part of every man's life must be spent in service.

maintained against insurrections or rebellions among its own subjects in no other way. So also maritime nations must have a navy to protect their commerce. In ordinary times the United States army and navy are filled by voluntary *enlistments*, but when these do not furnish enough men Congress provides for a *conscription*, called during our late war a *draft*. By this the number needed are chosen by lot from among the citizens, and they are compelled to go, or furnish substitutes. In order that Congress shall not lose control of the army when raised, it is provided that no appropriation shall be made for a longer period than two years. It may, however, make as many successive appropriations as it sees fit, and they are now made every year for such year.

5. Militia—Congress also can provide for calling out the militia (40). It has so provided by delegating the power to the President, to be so exercised when he thinks the necessity provided for by the Constitution has arisen.*

* Though the President is Commander-in-Chief of the army, navy, and militia, Congress still has practical control of all, for before they can be paid Congress must raise the money and appropriate it (49). In ordinary times this is done every year.

EXPRESS POWERS OF CONGRESS

[Under Art. I. sec. 8.]

I. ORDINARY PEACE POWERS

I. RAISING MONEY;

- | | | | | | | | | |
|---|---|----------------|---|-----------------------|---|--------------------------|---|----------------------|
| { | { | 1. By Levying, | { | 1. Direct Taxes, | } | For the
purpose
of | { | 1. Payment of Debts, |
| | | 2. Imposts, or | | 2. Common Defence, or | | | | |
| | | 3. Excises : | | | | | | 3. General Welfare. |

2. By Borrowing.

II. COMMERCE, REGULATION OF;

- | | |
|---|----------------------|
| { | 1. Foreign, |
| | 2. Among States, and |
| | 3. With Indians. |

III. NATURALIZATION.

IV. BANKRUPTCY.

V. COINAGE;

- | | |
|---|----------------------------|
| { | 1. Coining Money, |
| | 2. Regulation of Value, of |
| | { 1. Domestic Coin, and |
| | { 2. Foreign Coin. |

VI. WEIGHTS AND MEASURES, REGULATION OF.

VII. POST-OFFICE; Establishment of

- | | |
|---|----------------------|
| { | 1. Post-Offices, and |
| | 2. Post-Roads. |

VIII. SCIENCE AND USEFUL ARTS, ENCOURAGEMENT OF, by granting

- { 1. Copyrights, and**
- { 2. Patents.**

IX. INFERIOR COURTS, ESTABLISHMENT OF.

X. CRIMES;

- { 1. Piracies,**
- { 2. Felonies on High Seas, } to { 1. Define, and**
- { 3. International Offences, } { 2. Punish.**
- { 4. Counterfeiting ; to punish.**
 - { 1. U. S. Securities, and**
 - { 2. U. S. Coin.**

XI. TERRITORY; EXCLUSIVE LEGISLATION OVER

- { 1. District of Columbia, and**
- { 2. Forts, etc.**

II. POWERS RELATING TO WAR

I. DECLARATION OF WAR.

II. LETTERS OF MARQUE, GRANTING OF.

III. CAPTURES, RULES CONCERNING.

IV. FORCES;

- { 1. Army, } to { 1. Raise,**
- { 2. Navy, } { 2. Maintain, and**
- { 3. Militia, to Provide for } { 3. Make Rules for.**
- { 1. Calling out, to**
 - { 1. Execute Laws,**
 - { 2. Suppress Insurrections, or**
 - { 3. Repel Invasions.**
- { 2. Organizing,**
- { 3. Arming, } at all times.**
- { 4. Disciplining, and }**
- { 5. Governing, } when in U. S. service.**

CHAPTER XXXII

PROHIBITIONS ON THE UNITED STATES

1. Where Found—Section 9 of Article I. names certain subjects which Congress is forbidden to legislate upon.* Most of these form exceptions to the powers granted in the preceding section.

2. Slave-Trade—From an early period slaves had been imported into the Colonies from Africa. At the time when the Constitution was formed, laws prohibiting the foreign slave-trade had been passed in most of the States, but the delegates from a few States in the Convention insisted on having the privilege of importing slaves secured. A majority of the Convention were in favor of leaving Congress free to prohibit the trade at any time. But as it was doubtful whether certain States would in such case accede to the Constitution, and as it was desirable to bring as many States as possible into the Union, it was at length agreed that the trade should be left free for twenty years to all the States choosing to continue it (44, 79). Once more, a compromise.†

3. Habeas Corpus—The nature of this writ has

* It must be remembered that sec. 9 of Art. I. does not apply to the States, but only to Congress. The prohibitions upon the States are found in sec. 10. For instance, a State legislature is not prohibited by the United States Constitution from suspending the writ of habeas corpus, as far as State offences are concerned. For this reason provisions similar to those in sec. 9 are generally found in State constitutions, as to habeas corpus, appropriations, statements, etc.

† Congress did, however, in 1808 wholly prohibit the slave-trade.

been heretofore explained (see page 88). The presence of this clause (45) here shows how important the writ was considered. In England its operation had at times been suspended for slight and insufficient reasons. The clause applies only to United States judges. They can grant the writ only in cases of violation of United States laws (see page 182).

4. Bill of Attainder—*Attainder* in this phrase means that forfeiture of property and loss of all civil rights (among them, the right to inherit property or transmit it to heirs) which a person formerly suffered who had been condemned to death for treason or other crime. A *bill of attainder* is an act (*i.e.*, a law) of a legislature inflicting this punishment upon some particular person and condemning him to death, without a regular trial in court. Such laws are inconsistent with the principles of republican government, and are therefore properly prohibited to Congress (46, 71).

5. Ex post facto Law—This is a law that makes punishable as a *crime* an act which was not criminal when done, or that increases the punishment of a crime after it has been committed.* Such laws are unjust, and therefore wholly forbidden to Congress (46).

6. Direct Tax—What a direct tax or capitation tax is, has been already described (see Chap. XV., secs. 1 and 11). A prior clause has given the rule of apportionment of direct taxes (5). For greater security it was provided that no direct tax should be laid except

* If, for example, one should commit murder while the penalty was imprisonment for life, and the legislature should then pass a law, and apply it to his case, making the penalty death.

in that way, counting three-fifths of the slaves (47). But now if direct taxes were laid they would be in proportion to true population.

7. Export Duties—These are entirely forbidden to Congress (48). The reasons have been given before (see page 142, sec. 5). This clause forms an exception to the one in sec. 8 (26) which gives the right to lay duties.

8. Equality in Trade—It was the aim of the Constitution to secure to each State freedom and equality in trade. For this reason any preference of the ports of one State over those of another is forbidden (48).*

9. Appropriations—An *appropriation* is a law providing that a certain sum of money in the treasury shall be paid out for a certain purpose. The Constitution provides that no money shall be drawn out except when so appropriated by Congress (49). This places the public money beyond the reach or control of the Executive or any other officer, and secures it in the hands of the representatives of the people. Even the President cannot draw his salary unless Congress makes the appropriation. In pursuance of this provi-

* The last part of that clause, referring to entry, etc., may not be easily understood. It does not mean that vessels going from one State to another shall not be obliged to enter, clear or pay duties (as it might be literally construed). There are laws of Congress enforcing these things in certain cases. It means only that when a vessel is bound from a certain State it shall be obliged to clear only in that State, and when bound to a certain State it shall be obliged to enter or pay duties only in that State. The purpose was to prevent vessels from being compelled to enter, clear or pay duties at ports from which they did not come or to which they were not bound. This very hardship had been imposed upon American commerce before the Revolution by England, who compelled American vessels sailing to a foreign port to first go to England.

sion, Congress, at every session, passes laws specifying the objects for which money is to be appropriated.

10. Statements—The clause requiring statements of the receipts and expenditures to be published makes Congress responsible to the people. Such statements are published annually, and short abstracts are published monthly (49).

11. Titles of Nobility *—Congress is entirely prohibited from granting these (50). They would tend to introduce the distinctions of rank here that exist in many other countries, which the Constitution desires to prevent. As the Declaration of Independence says, "all men are created equal."

12. Relations of Officers with Foreign Sovereigns—Officers of the United States Government are forbidden to receive any present, office, or title from any foreign state, unless with the consent of Congress (50). This is to guard them against foreign influence.

CHAPTER XXXIII

PROHIBITIONS ON THE STATES

1. Treaties—Section 10 of Article I. enumerates certain things which each State is forbidden to do. The first one is, to make any treaty, alliance, or confederation † (51). Another clause forbids a State to make any kind of agreement with another State or with a foreign power without the consent of Congress (52).

* See page 20, sec. 6.

† For the meaning of *treaty* see page 172. An *alliance* is a union for some common object. A *confederation* is a broader word, signifying a closer union.

If the States, separately, were allowed to make treaties or form alliances with foreign powers, the rights and interests of one State might be injured by the treaties made by another. As the States united constitute but one Nation, it is obvious that the power to treat with other nations properly belongs to the General Government.

2. Letters of Marque—The States are forbidden to issue these, as by doing so one State might, for local reasons, direct the enmity of a foreign nation against the whole Nation, and perhaps involve the whole country in war.

3. Coinage—This is forbidden to each State. One object in giving this power to Congress was that the coinage might be uniform (see page 150), but if each State had the power also, this object might not be attained.

4. Bills of Credit—The States are forbidden to emit them. *Bills of credit* are promises to pay certain amounts of money, issued for the purpose of being used as money. The purpose of the clause was to prevent the future occurrence of the evils they had already caused.* The United States Treasury notes are bills of credit. Bank bills issued by State or national banks are not within the prohibition.

5. Legal Tender—The States are forbidden to make anything but gold and silver coin a tender in payment of debts. Tender, or, as it is usually called, *legal tender*, means that with which a debt may be

* *Bills of credit*, to a vast amount, were issued by the States during the Revolution, and for some time thereafter. This paper money, having no funds set apart to redeem it, became almost worthless.

paid, by law.* Some of the States had declared their irredeemable paper money a lawful tender. But paper money and property of all kinds are continually liable to fluctuation in value, and might subject those who should be compelled to receive it to great inconvenience and loss. Gold and silver are considered more stable in their value.

6. Bill of Attainder—This is forbidden to the State legislatures for the same reason that it is forbidden to Congress (see page 161, sec. 4).

7. Ex post facto Law—The States are forbidden to pass such laws, as they are unjust (see page 161, sec. 5).

8. Law Impairing the Obligation of Contracts—The passage of such a law by any State legislature is forbidden. Laws that would release men from their obligations would be contrary to the principles of justice, and destroy all security for the rights of property.†

9. Titles of Nobility—The granting of these by any State is forbidden, for the same reasons as in the case of Congress (see page 163, sec. 11).

10. Duties—States are forbidden to lay duties on

* Not all money is legal tender. The legal tender in this country now is gold, silver, and U. S. notes (see page 150). The creditor may take what he chooses in payment of the debt, but he cannot be compelled to take anything but legal tender.

† As bankrupt laws release debtors from the payment of their debts, and consequently impair the obligation of contracts, the question has arisen whether the States have power to pass them. From decisions of the Supreme Court of the United States, which is the highest judicial authority, it appears that a State may not pass a bankrupt law discharging a debtor from the obligation of a contract made before such law was passed. But it was not to be considered a law impairing the obligation of a contract, if it existed before the contract was made; because the parties, who are presumed to know that such law exists, may guard themselves against loss.

imports or exports (52). The reason that import duties are not allowed is that they may be uniform throughout the country. This has been explained before (page 142). Export duties are generally considered impolitic, as tending to discourage the industries of a country.

11. Inspection Duties—The exception allowing a State to lay duties necessary to execute its inspection laws was deemed proper. Laws are passed by the States for the inspection or examination of flour and meat in barrels, leather, and sundry other commodities in commercial cities, to ascertain their quality and quantity, that they may be marked accordingly. By this means the States are enabled to improve the quality of articles produced by the labor of the country, and the articles are better fitted for sale, as the purchaser is therefore guarded against deception. A small tax is laid upon the goods inspected, to pay for their inspection. But, lest the States should carry this power so far as to injure other States, these "laws are to be subject to the revision and control of Congress."

12. Tonnage Duties—These are duties laid upon vessels; so much per ton.* They are forbidden to States (unless with the consent of Congress), as they are a means of regulating commerce, which is a subject given entirely to Congress.

13. War—We have seen that war is another subject of which Congress is to have complete control (Chapter XXXI.). For this reason the States are forbidden to keep troops or ships of war in time of peace, or to engage in war, without the consent of Congress.

* A vessel's tonnage is not what she weighs, but the number of tons of freight she can carry.

PROHIBITIONS

[In Art. I., secs. 9 and 10.]

I. ON THE UNITED STATES

I. ON CONGRESS; as to

I. Taxes;

- { 1. Export Duties,
- { 2. Direct taxes, not in proportion to census.

II. Commerce;

- { 1. Abolition of Slave-Trade prior to 1808,
- { 2. Preference of Ports.

III. Other Laws;

- { 1. Suspension of Habeas Corpus,
- { 2. Bill of Attainder,
- { 3. Ex post facto Law,
- { 4. Titles of Nobility.

II. ON U. S. OFFICERS;

- { 1. Paying Money without Appropriation,
- { 2. Receiving from Foreign State, any

- { 1. Present,
- { 2. Emolument,
- { 3. Office, or
- { 4. Title.

II. ON THE STATES; AS TO

I. Taxes;

- { 1. Import Duties,
- { 2. Export Duties,
- { 3. Tonnage Duties.

II. Agreements with other States or Nations;

- { 1. Treaty, etc.,
- { 2. Any Agreement.

III. War;

- { 1. Letters of Marque,
- { 2. Troops, or War-vessels,
- { 3. Engaging in War.

IV. Money;

- { 1. Coinage,
- { 2. Bills of Credit,
- { 3. Legal Tender.

V. Other Laws;

- { 1. Bill of Attainder,
- { 2. Ex post facto Law,
- { 3. Law impairing Contract,
- { 4. Title of Nobility.

SECTION III.—EXECUTIVE DEPARTMENT

CHAPTER XXXIV

PRESIDENT AND VICE-PRESIDENT: ELECTION, QUALIFICATIONS, ETC.

1. Executive—One of the strongest distinctions between the present Union and the Confederation is that now we have a full and strong executive department, while under the Confederation there was none (see page 98).

2. Number—In regard to the organization and powers of the executive department there was great diversity of opinion in the Constitutional Convention. The three principal points discussed were (1) whether it should consist of one person as chief, or more; (2) the term; and (3) the mode of election. First: ought the chief executive power to be vested in one person, or a number of persons? Laws should be executed with promptness and energy. This is more likely to be done by one man than by a number. If several were associated in the exercise of this power, disagreement and discord would be likely to happen, and to cause frequent and injurious delays. For this reason it was decided to have one President (53).

3. Term—Second: as to the term. It was argued that the term should not be so short as to induce him to act more with a view to his re-election than to the public good, nor so short that he would not feel some independence of the people, and could not carry out his system of public policy; nor so long that he would

feel too independent of the people. The term of four years was decided upon as the most likely to avoid all the objections (53). It commences March 4th next after the election. A new Congress is elected and begins its term at the same time as each successive Presidential term.

4. Mode of Election—Third: as to the manner of electing the President. Several modes were proposed in the Convention, among them these: by Congress, by the State legislatures, by the people directly, and by Electors chosen for the purpose in some way. The last was the one adopted (54). The object was twofold: (1) to keep the legislative and executive departments distinct,* and (2) to make certain of such a man being elected as would be worthy of the high position. If Congress elected him, it would be practically combining the two departments; and on the other hand, if the people elected him directly, it was thought that they might be led into error through popular enthusiasm or misconception, and that at the time of an election there would be great excitement; but if he was elected by a body of select men, they would act with more deliberation and their judgment would be probably correct. And if they were selected for that one purpose it was thought they would be better fitted for it than the State legislatures would be.

5. Election of Electors—The Constitution does not prescribe the manner in which the Electors shall be appointed or chosen; this is left to the States. At first no uniform mode was adopted by the different States, but at present in all the States they are

* For this reason no Member of Congress nor civil officer can be an Elector.

selected directly by the people, by *general ticket*.* By a law of Congress, the Electors are required to be chosen in all the States on the same day, which is the Tuesday next after the first Monday of November.

6. Proceedings of Electors—On the second Monday of January the Electors meet in their respective States and vote for President and Vice-President. What follows is amply described in the Constitution itself (Amend. XII.). In 1804 a change was made in the mode of electing the Vice-President.†

7. Election by the House—On the second Wednesday in February after the election the Electoral votes are counted, and if no one has obtained a majority, the House and Senate elect the President and Vice-President respectively. This is described in the Constitution and need not be repeated here (95).‡

8. Present Practice—When the Constitution was framed it was intended that the Presidential Electors should exercise their own personal judgment, and that thus the President should be selected by the calm wisdom of a body of men selected for their fitness to perform such a duty. But the existence of political parties and their action has nullified the plan. Now the nominating conventions put forward the candidates for the Presidency, and the Electors are afterward nominated and voted for entirely with reference to those candidates, it being known beforehand which

* That is, every voter votes for as many men as the State is entitled to have Electors.

† The Constitution itself shows what this was (55, 95).

‡ The President has been elected by the House twice ; Jefferson in 1801, and John Quincy Adams in 1825.

one of the candidates they will vote for; and they never exercise their judgment, but simply record the vote of the people. It is unfortunate that the original plan could not have succeeded, for the present practice is open to the objections of an election directly by the people, which it is in effect.

9. Qualifications—These the Constitution specifies (57). It will be noted that they are higher than those required for a Senator, because the office is so much more important. No length of residence here by a foreigner will qualify him.

10. Vacancy—In case of a vacancy in the office of President, the Vice-President becomes the President.* Under the provision of the Constitution (58), Congress has enacted that, when there is neither President nor Vice-President, a member of the Cabinet shall, in the following order, act as President: The Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, Secretary of the Interior.

11. Salary—The President has a salary, its amount being fixed by Congress. Congress may increase or diminish it, but not so as to affect the President in office at the time (59). If Congress could reduce his salary at pleasure, he could never afford to be independent of them. On the other hand, if it could be increased during his official term, he might be tempted to use undue influence to procure a needless increase.

* The Vice-President has no duties to perform as Executive of the Nation. He merely presides in the Senate. In dignity the office of President is much higher.

CHAPTER XXXV

POWERS AND DUTIES OF THE PRESIDENT

1. Commander-in-Chief—The President is commander-in-chief of the entire military force of the Nation (61). This power must be given into the hands of one man. If there were more (even two) there might be no firmness or promptitude, qualities absolutely necessary to render any army useful. The President is the proper person, for he is the Executive of the Nation. But the President does not take the field himself. The actual operations are conducted by his generals under his supervision.

2. Reprieves and Pardons *—These may be granted by the President, but only in cases of convictions by the United States courts (61). Over State offences he has no jurisdiction. Peculiar cases may arise where, although a person is adjudged guilty of a crime, he does not deserve the punishment the law provides; as if, for instance, new evidence should arise showing him to be innocent. But the pardoning power may be greatly abused, and some claim that it would be better to take it away altogether.

3. Treaties—A *treaty* is an agreement between nations, and it may be upon any subject: for peace, for war against some third power, concerning commerce, the mail, the return of escaped criminals, or any other subject. The power to make them for the United States rests with the President. But this is so

* See page 48, sec. 7.

important a duty that it is not intrusted to him alone, but two-thirds of the Senate must concur (62).*

4. Ministers—These are officers sent to a foreign nation to represent their own nation there. In this country they are appointed by the President, with the advice and consent of the Senate. Some are now called *ambassadors*. Our government sends a minister to each of the civilized and semi-civilized nations of the world. They reside abroad and transact any business that our government may have with the government of the country where they are. They often negotiate treaties.†

5. Consuls—These the President appoints in the same way. *Consuls* are agents of inferior grade. They reside in foreign cities. Their business is to aid their respective governments in their commercial transactions with the countries in which they reside, and to protect the rights, commerce, merchants, and seamen of their own nation. Hence much of their business is with masters of vessels and with merchants.

* Treaties are *negotiated*; that is, the provisions or terms are arranged and agreed upon, by the agents of the two governments; and a copy of the articles of agreement is sent to each government to be *ratified*. Both governments must ratify, or the treaty fails. Treaties are ratified, on the part of our government, by the President and Senate. This is what is meant by their making treaties.

† Until recently we have rarely sent ambassadors, but *ministers plenipotentiary*. An ambassador who is intrusted with the ordinary business of a minister at a foreign court, and who lives there, is called an *ambassador in ordinary*. An *ambassador extraordinary* is a person sent on a particular occasion, who returns as soon as the business on which he was sent is done. He is sometimes called *envoy*; and when he has power to act as he may deem expedient, he is called *envoy plenipotentiary*; the latter word signifying full power

6. Judges—The President and Senate appoint also the judges of the Supreme Court, and of the Circuit and District courts.

7. Other Appointments—Thus we see that the President has very important powers of appointment. Nor is he under the control of the Senate always, for under the Constitution (62) Congress has vested the appointment of very many inferior officers in him alone, or in the Heads of Departments, who are appointed by him and more or less under his influence. The advantage is that a President is thus better able to carry out his own policy if he has the selection of those who shall aid him. But the danger is that if we should obtain an ambitious or unprincipled President he might use the power of appointment simply to reward those who would advance his own interests, and greatly to the injury of the people.*

8. Vacancies—But in those cases where the Senate must concur in appointments, vacancies will often occur while the Senate is not in session. In such cases the President may alone make temporary appointments (63). Without such a power somewhere, the public interests would often suffer serious injury. When the Senate acts on appointments it is said to go into *executive session*.

* For some time past the two political parties have used this power to advance their own interests, and when a new party has come into power very many of the civil officers have been removed without cause in order that members of that party might be appointed in their stead. The aim of Civil Service Reform is to establish the custom of retaining officers, at least of inferior rank, as long as they do their duty, and of appointing those best fitted for the office, no matter to which party they belong. This is the policy of England, and ought to be of our country.

9. Removals—Most of the officers, clerks, etc., in the Civil Service* of the United States are appointed for no particular term, but hold office until the appointing authority removes them. Those appointed by the President, or any other officer alone, can be removed by him or such officer at any time. With regard to those whose appointments the Senate must concur in, it was urged at first by many that the consent of the Senate must also be obtained to the removal, but this has not been the practice. Up to 1867 the President exercised the power of removal alone in all cases. In that year the "tenure of office act" was passed, requiring the consent of the Senate to the removal of those officers whose appointment they must concur in. This, however, was repealed March, 1887.

10. Message—At every session the President sends to Congress a *message*, containing recommendations of the passage of such measures as he judges expedient (64). This, of course, gives little information, but it serves to fix the responsibility upon them.

11. Convening Congress—Besides the regular sessions each year, Congress may be convened by the President when he thinks an extraordinary occasion has arisen such as to render it necessary, but at such times they only act upon the subjects he lays before them.

12. Reception of Foreign Ministers—This is devolved upon the President as the proper person to repre-

* The "Civil Service" means the body of persons employed by the United States, from the Cabinet down to the lowest clerks in the Post-Office, except the army and navy. It includes now perhaps 100,000 persons.

sent the Nation. It is usually a merely formal matter, but may be one of great importance. In case a revolution has occurred in some foreign country and a new minister is sent here, the President in deciding whom he will receive must decide whether to recognize the new or the old government, and this might involve us in war.

13. Execution of the Laws—This is the most important and most comprehensive duty devolved upon the President. It calls upon him to see that above all things obedience is rendered to all the laws of the Union. It is for this purpose that he is made commander of the army and navy. In 1861 President Lincoln would have disregarded this high obligation had he refused to take every means to subdue those States which had openly revolted from the authority of the Nation.

By comparing this chapter with Chapter XI. it will be seen how similar the powers and duties of the President are to those of a State governor; but those of the former are as much more important in their exercise than those of the latter, as the Nation is greater than any State. The State constitutions generally have been modelled on the United States Constitution.

CHAPTER XXXVI

AUXILIARY EXECUTIVE DEPARTMENTS

1. Departments—The great amount and variety of the executive business of the Nation require the division of the executive department into several subordinate departments, and the distribution among them

of the different kinds of public business. These departments are nine in number, named as follows: (1) Department of State, (2) Department of the Treasury, (3) Department of the Interior, (4) Department of War, (5) Department of the Navy, (6) Department of Justice, (7) Post-Office Department, (8) Department of Agriculture, and (9) Department of Labor.

2. Cabinet—At the head of each of these Departments is a chief officer. These chief officers, sometimes called *Heads of Departments*, are named respectively the Secretaries of State, of the Treasury, of the Interior, of War, and of the Navy, the Attorney-General, Postmaster-General, Secretary of Agriculture, and Commissioner of Labor, and are appointed by the President with the consent of the Senate. The first eight of these form the *Cabinet*, and act as a council of advice to the President. Owing to this close relation between a President and his Cabinet it is usual for the Senate to confirm whomever the President selects for Cabinet officers.

3. Department of State—This department has charge of all the business of the Nation with foreign nations. The Secretary of State conducts all our diplomatic* correspondence, being the official organ of communication with the ministers of foreign governments sent to this country, and with our ministers abroad. He is also the custodian of the seal, the laws, and other official documents of the Nation.

4. Department of the Treasury—To this belongs the charge of the finances of the Nation. It collects the revenue from customs and excises, pays the debts

* *Diplomacy* is the science of conducting negotiations between nations.

of the Nation, coins the money, and takes charge of all money paid to the government. The vast amount of business in this department requires a great number of assistants. All the custom-houses, mints, and sub-treasuries form part of it. The building devoted to its business in Washington is one of the largest there.

5. Department of the Interior—The chief subjects of which this department has charge are the taking of the *census* every ten years (5), the management and sale of the *public lands*, the management of the *Indians*, the payment of *pensions*,* the granting of *patents*, and *education*.

6. Department of War—This department has charge of the procuring of supplies and equipment and other matters relating to the army. Its duties are of course far more important in time of war than in peace. The coast signal service belongs to this department.

7. Department of the Navy—This department has charge of the navy, the procuring of supplies and equipment of vessels of war, etc.

8. Department of Justice—The duties of the Attorney-General and his assistants are to attend to all suits in the United States courts in which the United States is interested, and to give their opinions in writing on legal questions when requested by the President or Heads of Departments.

9. Post-Office Department—This has charge of the

* A *pension* is a yearly allowance to a person by the government for past services. In this country pensions are granted to those who are disabled in war. If a soldier is killed a pension is granted to his widow or children. The amount of pensions now paid in this country is very large.

mail. All post-offices form a part of it. The Postmaster-General establishes post-offices, provides for carrying the mail, and has general charge of all matters connected with it.

10. Department of Agriculture—Here are investigated matters pertaining to the agricultural interests of the country, such as the destruction of injurious insects, the eradication of diseases of live-stock, the best kinds of seed, of manures, etc., etc. Its publications are widely distributed among the farmers, as are also large quantities of seeds of the best varieties.

11. Department of Labor—This is a purely statistical bureau, and is engaged in the collection and publication of facts relating to strikes, cost of production, wages, industrial depressions, and other matters bearing upon labor and industry.

12. Other Executive Branches—In addition to the departments mentioned, various other bureaus and commissions have been established, among which are the following:

(1) The *Interstate Commerce Commission*, devoted to the regulation of railway rates; (2) the *Civil Service Commission*, devoted to the examination of those entering the public service, for whom educational tests are imposed; (3) the *Fish Commission*, engaged in all matters pertaining to the improvement of fisheries in the United States; (4) the *National Museum, Smithsonian Institution and Bureau of Ethnology*, for the maintenance of a museum of natural history at Washington, and the study of North American anthropology; and (5) the *Government Printing Office*, wherein are printed the annual reports required of each Department, the "Congressional Record," or *ver*.

batim reports of the proceedings of Congress, and all other statistical and educational reports issued by the various branches of the government service.

SECTION IV.—JUDICIAL DEPARTMENT

CHAPTER XXXVII

NATIONAL COURTS AND THEIR JURISDICTION

a. Courts

1. Necessity for National Judiciary—We now come to the third article of the Constitution, providing a national judicial department. The Confederation had none, and was thus dependent on the States. The chief reason why a national judiciary is necessary in addition to the State systems is that the State judges might be biased in favor of their own State. Laws of Congress often bear with greater hardship on some States than on others, and public opinion in those States upon whom the burden lay might be so strong in opposition that no judge elected and supported by those people would sustain it. But if the judge belonged to a national system, and thus represented and was supported by the whole Nation, he would have nothing to fear, and thus his decision would be more impartial. The experience of the Confederation taught this.

2. Courts—The judiciary consists of four grades of courts: the *Supreme Court*, the *Circuit Courts of Appeals*, the *Circuit Courts*, and the *District Courts*. The Supreme Court is the highest court in the land, and was established by the Constitution itself (66).

The others were established by Congress. The Supreme Court consists of nine judges, and its jurisdiction is almost wholly appellate; that is, cases are not tried in it, but it only hears appeals from the other courts, and that only in the most important cases. It has original jurisdiction in a few cases. There are nine Circuit Courts of Appeals to which cases are appealed from the Circuit and District Courts. The judges of the Circuit Court of Appeals are Justices of the Supreme Court or judges of the Circuit or District Courts. Some cases are appealed from the Circuit Court of Appeals to the Supreme Court. Of the Circuit Courts there are nine in the country. There are seventy-two District Courts (including the three in the Indian Territory). The jurisdiction of all the courts is both civil and criminal.*

3. Court of Claims—No one has any right to sue a government. Such a right is inconsistent with sovereignty. So, in this country, no one has a right to sue the people (they are the government), for it is the people from whom he gets any right, even the right to his own property or his life, and to admit that any one had a right to force anything from them would be admitting that they were not sovereign. For this reason no one has a right to sue the United States, or any State (94). But Congress has established a court called the *Court of Claims*, in which those having claims which they think ought to be paid by the United States may bring a suit in the ordinary way, in form against the United States, and the court decides whether they should be paid. If it is decided in the claimant's favor it is so reported to Congress, and Congress generally will make an appropriation. But

* For explanation of the terms used in this section see page 79.

Congress is free to do as it chooses, and there is no way to compel payment. Some States have established similar courts of claims, but though proceeding in legal methods, they perform rather the functions of legislative committees than courts.

4. Tenure of Office—By the Constitution the judges hold office during good behavior (**66**). This means until removed on impeachment for bad behavior, and thus in most cases it means for life. In no other department of the general government are offices held for so long a term. The purpose is to insure a correct and impartial administration of justice by making them independent. If they could be displaced at the pleasure of the appointing power, or by frequent elections, they might be tempted to conform their opinions and decisions to the wishes of those on whom they were dependent for continuance in office. The object of the framers of the Constitution was to remove them as far as possible from party influence.

5. Salary—As with the President, so here, Congress, though it fixes the salaries of the judges, cannot diminish them while in office. To give Congress power over the purse of an officer is to give it power over his will. Dependence upon the legislature would be as great an evil as dependence upon the appointing power.

b. Jurisdiction

6. In General—The jurisdiction of the United States courts does not extend to all kinds of cases, but only to such as the Constitution specifies, just as Congress has power to pass only such laws as the Constitution allows it to. The cases enumerated in the Constitution (**67**) in which the national courts have jurisdiction may be

divided into three general classes: (1) those arising under the Constitution, the laws of Congress, and treaties; (2) those affecting foreigners; and (3) those between different States or the citizens of different States.*

7. Cases arising under United States Laws—Cases which arise under the Constitution, laws, or treaties of the United States may be those where a person is given a right by the Constitution, laws, or treaties which he does not have by the laws of his State (as, for instance, a right to sue an infringer of a patent granted to him), or where he violates a law of Congress, or treaty (as counterfeiting coin, or doing anything forbidden by a treaty), or where any question arises as to the meaning of the Constitution, laws, or treaties of the United States, or as to whether a law of Congress is constitutional† or not. In these cases it makes no difference whether the parties are citizens of the same State or not. The jurisdiction is given to the national judiciary for two reasons: (1) in order that in the interpretation and enforcement of its own laws it may not be dependent on the States, and (2) in order that the interpretation may be uniform throughout the country. Were it left to the State courts, some States

* It will be seen, therefore, that the great majority of cases between citizens of the same State must be brought in the State courts. So also the great majority of criminal cases are tried in the State courts.

† A law of Congress is unconstitutional (and wholly void) unless the Constitution has given Congress the right to pass it (see page 140). If, for instance, Congress should pass a usury law (that is, a law regulating the interest of money), or a law abolishing capital punishment, it would be void, because it has not been given these powers by the Constitution.

might decide that a law meant one thing, and other States that it meant another.

8. Cases affecting Foreigners — The decision of these properly belongs to the national courts, for the reason that if a foreigner is injured here, the Nation, and not the State, is responsible to the foreigner's government: therefore the Nation, and not the State, should redress the injury. And where the foreigner is an ambassador, or other minister, the Supreme Court has original jurisdiction of the case (68). This is in order to provide as certainly as possible against the danger of injustice being done, for it might involve the country in a dispute, or even war, with his country. All public ministers are treated with the highest respect, for this reason. Admiralty jurisdiction* is also given to the national courts, for the reason that many admiralty cases affect foreigners. Another reason is that admiralty is a part of the regulation of commerce, which we have seen is a subject taken away from the States and given entirely to the United States.

9. Cases affecting Different States, or their Citizens—The third class of cases in which the national courts have jurisdiction is where the parties on the two sides, plaintiff and defendant, are either two different States, or citizens of different States. The reason for this jurisdiction is to prevent dissension among the States. If the decision of a question which

* Admiralty jurisdiction is jurisdiction of cases arising on the sea, or connected with vessels; as, for instance, cases of piracy, of collision on the sea, or claims for repairing a vessel, or contracts to carry freight or passengers. No State has any jurisdiction over the ocean.

affected two States were left to the courts of either, the controversy instead of being closed would be intensified. The history of the small German States and of the States under the Confederation illustrates this. But now, there being an impartial arbiter, the United States, the States submit to the decision.*

CHAPTER XXXVIII

TREASON

1. Why Defined.—Treason is one of the highest crimes that man can commit. Yet, such deep resentment and alarm does it create among the people, for it is an attempt to overthrow the established government, that the tendency always is to see it in acts which may be innocent, and which at least do not have such a purpose. For this reason the Constitution itself says what shall be considered treason, and what proof shall be necessary to establish it (70). It must

* It will be noticed that the jurisdiction in the cases mentioned in this and the preceding section depends upon the character of the persons suing or sued, while in those mentioned in section 7 it depends upon the character of the case. When the case is such as to give the national courts jurisdiction it makes no difference whether the parties are citizens of different States or not, and when they are citizens of different States, or one is a foreigner, those courts have jurisdiction whether the case is one of those mentioned in section 7 or not. Not all the cases enumerated in sec. 2 of Art. III. (67) have been spoken of separately in the text. It will be a useful exercise for the pupil to write down each separate case mentioned there, and tell to which one of the three classes described above it belongs, and why. But he will be apt to make a mistake as to suits by citizens against States, unless he consults Amendment XI. (see page 198). A State cannot be sued except by another State.

be either making war against the United States, or adhering to its enemies. And it is not sufficient that there is an intention or even a conspiracy to do these things, though they are highly reprehensible. There must be some overt (*i.e.*, open) act, before it is treason.

2. Proof—The proof required is more than in the case of most crimes. Generally one may be convicted, even of murder, upon the testimony of one witness directly to the commission of the crime, or even without any direct testimony upon its commission, provided the other circumstances proven point toward it. But in treason against the United States, no matter what circumstances point toward it, there must be two witnesses to the same act.

3. Punishment—Under the authority given by the Constitution (71) Congress has declared the punishment of treason to be death, or, at the discretion of the court, imprisonment and fine; the imprisonment to be for not less than five years and the fine not less than \$10,000. An *attainder* of treason means here judgment by a court. In England formerly, when one was adjudged guilty of treason all his property was forfeited to the king, and he could neither inherit nor transmit property to heirs. This is what is meant by *corruption of blood*. Thus for a man's treason his innocent relatives were punished with him. But that is not so here. A law of Congress provides that no conviction (of any crime against the United States) shall work corruption of blood or any forfeiture of estate.

4. The Civil War—In this country there were no prosecutions for treason after the War, even of the leaders. They were, however, laid under certain polit-

ical disabilities, but even these have now (1894) been almost entirely removed.

5. Other Crimes—The great majority of crimes, such as murder, forgery, theft, etc., lie generally within the jurisdiction of the State. The State laws describe them, and the State courts punish them. The other subjects, beside treason, upon which Congress has authority to define offences and establish their punishment, and of which the national courts have criminal jurisdiction, are chiefly as follows: *All crimes committed on the sea*, piracy, murder, theft, etc.; *perjury* and other judicial crimes when committed *in the national courts*; *counterfeiting* United States notes or coin; *forgery* of patents or other *United States papers*; robbery of the *mail*, or other crimes connected with the postal service; *extortion* by a *United States officer*; the holding of *slaves*; and preventing any one from exercising his civil rights, by *intimidation* or other means.

SECTION V.—MISCELLANEOUS PROVISIONS

CHAPTER XXXIX

RELATIONS OF STATES

1. Records—Article IV. of the Constitution contains a number of important provisions, most of which affect the relations of the States to each other and to the General Government. The first one is in regard to the effect which the laws, records, and judgments of one State shall have in another, and the provision is that they shall have full effect everywhere (72).

For instance, if a person is sued in New York and there is a decision on the merits against him, it is decided, once for all, and it may be enforced against him wherever he goes. Were it not for this clause States might provide that no matter how many times a question had been tried, it must be tried over again with all the evidence before they would enforce it. Congress has prescribed the manner in which public acts and records may be proved, and when proven they are conclusive as to the things stated in them.

2. Privileges of Citizens—No State can grant privileges to its own citizens, from which the citizens of other States are excluded (73). The purpose is to put all on an equality everywhere. Without such a provision, any State might deny to citizens of other States the right to buy and hold real estate, or to become voters after living in the State the prescribed time, or to enjoy equal privileges in trade or business.

3. Fugitive Criminals—The officials of one State have no power in another State as officials. For instance, the police or sheriff of New York City have no power to arrest a murderer in Jersey City. But the Constitution provides against the escape of criminals in this way (74). The Governor of the State from which such person has fled, sends a *requisition* to the Governor of the State in which he is found, demanding his delivery to the first State. This requisition is usually complied with, and yet cases have occurred in which a Governor has refused to deliver up an accused person, and there is no way provided to compel him. This seems to have been an oversight on the part of the framers of the Constitution.

4. Fugitive Slaves—By the common law, a slave

escaping into a non-slaveholding State became free. As it was presumed at the time the Constitution was framed that other Northern States would follow Massachusetts in abolishing slavery, the Southern States wanted some provision to enable them to reclaim their fugitive slaves. The Northern States, though opposed to this, yielded for the sake of unity (75). Escaped slaves were, under this provision, returned to the South up to 1861. The clause is of course obsolete now.*

5. New States—The provision (76) with regard to the admission of new States into the Union was deemed necessary in view of the large extent of vacant lands within the United States, and of the inconvenient size of some of the States then existing. The territory north-west of the Ohio River had been ceded to the General Government by the States claiming the same. South of the Ohio River also was a large tract, principally unsettled, within the chartered limits of Virginia, North Carolina, and Georgia, extending west to the Mississippi. These two tracts it was presumed would soon become so thickly populated as to require separate governments. Since that time vast tracts have been acquired from France, Spain, Texas, and Mexico. From all these tracts thirty-one new States have been formed and admitted into the Union. When formed from the territory of the United States the consent of Congress only is required, but when formed from the territory of another State the consent of that State must also be obtained.† The case of West Virginia was exceptional.

* The words "slave" does not appear in the original Constitution.

† After the late war Congress declared the Southern States to have

6. United States Territory—Congress has complete power over the territory not organized into States (77). It establishes territorial governments, and these carry on all the ordinary governmental duties, but they are subject to the control of Congress. The clause with regard to the claims of States has no effect at the present day.

7. Protection by United States—The United States must always see to it that the State governments are republican in form (78). The object is to perpetuate republican institutions. If some large State should establish a monarchy, it might in time engulf smaller ones, and in the end destroy the Constitution. Its policy would be in opposition to all republican institutions. So, if a State is in danger from invasion, or insurrection, it may call on the Nation for assistance.

CHAPTER XL

AMENDMENT : DEBT : SUPREMACY : OATH : TEST : RATIFICATION

1. Reason for Amendment—Article V. describes the manner in which the Constitution may be amended (79). As the best human government is imperfect, and as all the future wants and necessities of a people cannot be foreseen and provided for, it is obvious that every constitution should contain some provision for its amendment.

2. Mode of Amendment—This is described in the

no lawful governments, and placed them under temporary military governments. In time they adopted new constitutions, and were readmitted to the Union by Congress.

Constitution (79). If amendments could be made whenever desired by a bare majority of the States, the strength and efficiency of the Constitution might be greatly impaired by frequent alterations. It is therefore wisely provided that a mere proposition to amend cannot be made except by a majority of at least two-thirds of Congress, or of the legislatures of at least two-thirds of the States; and that such proposition must be ratified by a still larger majority (three-fourths) of the States. It was thought better to submit occasionally to some temporary inconvenience than to indulge in frequent amendments.

3. Public Debt—The clause (80) which adopts the prior debts of the country was intended to allay the fears of public creditors, who apprehended that a change in the government would release the Nation from its obligations. But their fears were probably groundless, for one purpose in changing the government was to provide a way to pay those debts.

4. Supremacy—The next clause (81) declares that the Constitution, the treaties and the laws of Congress shall prevail over any State law or constitution. This is the clause giving efficacy to the whole Constitution. If any State could nullify the national law, nothing would be gained by the Union. Now, when a State law or State Constitution is passed contrary to the law of the Nation every one must consider it void, and the State judges must declare it so.

5. Oath of Allegiance—All members of all State and national, legislative, executive, and judicial departments are required on taking office to take the oath of allegiance, *i.e.*, to support the Constitution of the United States (82). Binding the conscience of public officers

by oath or solemn affirmation has ever been considered necessary to secure a faithful performance of their duties. They are generally required to swear not only to support the Constitution, but also to discharge the duties of their offices to the best of their ability.

6. Test Oath—In the same clause, *test* (often called *test oath*) means an oath or a declaration in favor of or against certain religious opinions, as a qualification for office. In England, all officers, civil and military, were formerly obliged to make a declaration against transubstantiation, and to assent to the doctrines and conform to the rules of the established church. The object of forbidding it here was to secure to every citizen the full enjoyment of religious liberty. But this clause does not bind the States. They can provide tests, but usually they have similar clauses in their constitutions.

7. Ratification—By the Constitution (**83**) nine States were to ratify it before it had binding effect in any. The immediate ratification of the Constitution by all the States was hardly to be expected; a unanimous ratification, therefore, was not required. But a Union of less than nine States was deemed inexpedient. The framers concluded their labors on the 17th of September, 1787; and in July, 1788, the ratification of New Hampshire, the ninth State, was received by Congress.*

8. Commencement of Government—Thus in July, 1788, the government had begun. During 1788 and the

* The Constitution could not become binding on any State except by its own ratification, for the State was sovereign. But with amendments it is different. When accepted by three-fourths they are binding on all. They have given up their sovereignty to this extent. By accepting the Constitution at first each State agreed that amendments might be made binding in that way, even against their consent.

early part of 1789, Senators, Representatives, and Presidential Electors were chosen by the States. In February, 1789, General Washington was elected President by the Electors, and was inaugurated April 30th following, when the 1st Constitutional Congress assembled.

CHAPTER XLI

THE FIRST TWELVE AMENDMENTS

1. In General—It is remarkable that during so long a period the Constitution has received so few changes. Up to 1865, though twelve amendments had been added, only the last two of them had made any alteration in the original provisions. This proves the wisdom and skill of the patriots who framed it, to whom we should be ever duly grateful for having furnished our country with so admirable a bulwark of liberty.

2. Bill of Rights—This is a name given to the first ten amendments, because they contain a list of the rights deemed most important to the liberty of the people. These amendments do not change any original provision of the Constitution. They act merely as restrictions and limitations upon the powers of Congress, and were deemed unnecessary by those who framed the Constitution, for the reason that those rights were so generally acknowledged, and that the powers of Congress were limited to those expressly granted to it. But as several of the State conventions had, at the time of adopting the Constitution, expressed a desire that declarations and guaranties of certain rights should be added, in order to prevent misconstruction and abuse, the first Congress, at its first ses-

sion, proposed twelve amendments, ten of which were ratified by the requisite number of States.

3. Its Purpose—As long as popular liberty lasted sufficient to maintain any part of the Constitution it is not probable that any of these rights would have been violated, even had they remained unexpressed. And yet it was of value to express them. They are thus kept in the mind of all, serving as reminders, both to the ambitious man who in his power grows neglectful of the people's rights, and to the people themselves, who sometimes, through excitement and sudden indignation, are inclined to forget the rights they have guaranteed to every one. It is important to remember that the first eight amendments affect only Congress and the national courts, not the State legislatures. For this reason similar provisions are often inserted in State constitutions, to bind the State legislatures and courts. We will refer briefly to these amendments in their order.

4. Religious Freedom—The object of the 1st Amendment was to prevent the National Government from abridging religious freedom in any degree (**84, 82**). In England, though all were free to worship as they chose, yet there was an established church, supported by the government. Here it was thought best not only to have perfect liberty in religion, but also to have the Church and State entirely separate.

5. Freedom of Speech and of the Press—These have been before defined (page 16). Congress is forbidden to pass any law abridging them (**84**). The object of this provision was not to allow one to go unpunished who uttered slander or published libel. It was intended to prevent all use of those means which

in former times had been used to repress the people, by forbidding them to speak or write on certain subjects unless licensed by the government beforehand. At one time it was the law in certain countries that even the Bible should not be printed except in a certain language, which the people did not understand. So, also, governments would require all books to be licensed before they could be printed, and would forbid the utterance of any criticism, no matter how just or honest, against them or their officers.

6. Right to Assemble—So, too, Congress is forbidden to pass any law abridging the right of the people to assemble and present petitions to the government (84). Under pretence of preventing insurrection governments have at times denied the people this right.

7. Right to Keep Arms—This means the right of every one to own and use, in a peaceful manner, warlike weapons; Congress is forbidden to pass any law infringing the right (85). It was thought that without it, ambitious men might, by the aid of the regular army, overthrow the liberties of the people and usurp the powers of government.

8. Quartering of Soldiers in Private Houses—The 3d Amendment arose from a remembrance of past experience (86). Among the grievances enumerated in the Declaration of Independence was one “for quartering large bodies of armed troops” among the people of the Colonies.

9. Searches and Seizures—A *search-warrant* is a paper issued by a court directing a person's premises to be searched, because it is suspected there is stolen property there or property subject to duty. A *seizure* is the taking of such property, or the arrest of the

person, by the officer. In the early times of English history these had been converted into instruments of tyranny. Search-warrants had been sometimes granted when no accusation had been made, and in blank, so that by filling out the blank the officer could search any house he chose. The 4th Amendment forbids Congress to pass any law authorizing warrants to issue, except when good cause is shown, and supported by oath (87).

10. Criminal Proceedings—The object of most of the provisions of the 5th and 6th Amendments is the protection of one accused of crime. Popular opinion is generally hasty in cases of crime, and the rights named in these amendments, most of which are easily understood,* are such as had been found necessary in the history of justice in England to save innocent persons from punishment. By them Congress is forbidden to pass any law infringing these rights (88, 89). So important was the trial by jury in criminal cases considered, that it had been inserted in the body of the Constitution (69).

11. Private Property—Every government of unlimited powers has the right to take the private property of any person, for some public use, and it may be done even without compensation. This is called the right of *eminent domain*. But even in those cases where Congress has this right, the 5th Amendment forbids its exercise without just compensation being paid the private owner (88).

12. Trial by Jury in Civil Cases—We have seen that the jury trial is secured in criminal cases (69).

* In the 5th Amendment "twice put in jeopardy" means tried again after having been once acquitted.

The 7th Amendment requires it in civil cases * also (90). Both these provisions refer only to cases in United States courts. The 7th Amendment also provides what the effect of a jury's verdict shall be. By the rules of the common law, when the jury had rendered a decision upon a question of fact upon which some witnesses had testified in one way and others in another, that question could not be re-examined in a higher court. After the passage of the Constitution it was thought that the clause which gives the Supreme Court appellate jurisdiction both as to law *and fact* (68) might give it power to overthrow the verdict of a jury, and therefore this amendment was added. Thus we see how carefully the Constitution protects the security, liberty, and property of the people.

13. Excessive Bail—Bail has been described (page 88). But it will be seen that the amount of the bond might be fixed so high as to prevent persons accused of crime from procuring the necessary sureties; whereby innocent persons might be subjected to long imprisonment before the time of trial. To prevent this in the United States courts is the object of the 8th Amendment. So, also, the degree of punishment is often left to the discretion of the court, as in the case of treason, where any amount of fine over \$10,000 may be imposed. This amendment serves as a safeguard against excess (91).

14. Rights of People—There were those who

* The amendment says "suits at common law." These are distinguished from suits in *equity* or *admiralty*. It is unnecessary to give the meanings of these terms here. "Common law suits" include a large majority of all civil cases.

feared that because the Constitution mentioned certain rights as belonging to the people, those not mentioned might be considered as having been surrendered to the General Government, or as having never existed. To prevent such possible misconstruction was the object of the 9th Amendment (92).

15. Powers not Delegated—So, also, the 10th Amendment was strictly unnecessary, for it is self-evident that what one has and does not give away he still retains (see page 140). But many were fearful that the central government might absorb the powers rightfully belonging to the States, and this was inserted to prevent such abuse (93).

16. Suits against States—No State court can entertain any suit against a State. The 11th Amendment forbids the United States courts to entertain them (except by one State against another) (94). During the Revolution the States had issued bills of credit which had not been paid. After the adoption of the Constitution suits were brought against some of the States by private persons to enforce payment of these bills of credit, and the Supreme Court decided that under the judicial clause (67) this could be done. It was in consequence of this decision that the amendment was passed. Now there is no way for a private person to sue a State in any court. It is thought best to leave a State free to settle its obligations in its own way and in its own time.

17. Election of President—This is the subject of the 12th amendment (95, 96), and has been elsewhere treated (page 168). This amendment was adopted in 1804. Under the plan first adopted the chief opponent of the President became the Vice-

President, and as the country had become divided into two great opposing parties, they would naturally belong each to one of those. Now the Vice-President will usually belong to the same party as the President. Many have doubted the wisdom of this change.

CHAPTER XLII

THE 13TH, 14TH, AND 15TH AMENDMENTS

1. In General—These three amendments were the logical political result of the Civil War. Its ultimate cause was negro slavery; its final result, the raising of the negro to an equality before the law with the white man. These amendments differ from the others in this respect, that they are binding on the States as well as on the National Government. The States are named in them.

2. Slavery—In 1863 President Lincoln had issued the Emancipation Proclamation. Whether this had any legal effect or not, the adoption of the 13th Amendment in 1865 did abolish slavery throughout the country (98).

3. Civil Rights—But it is evident that a person, though not a slave, may not have all the civil rights of others, as the right to acquire, hold, or sell property, to engage in trade, to live where he pleases, etc. The slaves, emerging from slavery, had no civil rights. But by the 14th Amendment they are made citizens and all civil rights bestowed upon them (99). This was the second step in the elevation of the negro.

4. Apportionment of Representatives — Thus 4,000,000 people were added to the number of citizens

in the United States, and they should be represented in the House. Therefore the total population was made the basis of representation. But it was anticipated that the Southern States might not give the negro the right to vote, and thus he would be deprived of his representation in the House, while the white population of the South would derive all the gain from the increased representation, and therefore it was provided that whenever any State denied the suffrage to any male citizens of the United States, its Representatives should be proportionately decreased in number (100).

5. Political Disabilities—We have seen that all officers of any State or the United States were required (82) to take an oath to support the Constitution. The North considered that engaging in war against the National Government was attempting to subvert the Constitution, and therefore a breach of that oath. Therefore it was thought best to deprive such as had taken the oath and afterward engaged in war against the Union, of the right to hold office (101). But Congress was allowed to remove the disability, and has done so in case of all but a very few.

6. National Debt—The 14th Amendment also recognizes and declares the validity of the national debt, but forbids the payment of any debt incurred in aid of rebellion, or any claim for the emancipation of the slaves (102). The South had incurred a large debt in the war, which was thus made void.

7. Right of Suffrage—But though the colored race had all the civil rights, it had not as yet the right to vote. We have seen that the qualifications of voters is a matter belonging to the State (pages 26, 148, *note*).

But by the 15th Amendment the State is forbidden to deny the right of suffrage to any one on account of his "race, color, or previous condition of servitude" (103). Thus the third and final step was taken in the constitutional changes, by which the black man was raised to a political equality with his fellow-man.

8. Final—We have now completed our review of the National Government. The system established by the Constitution is peculiar, and is not necessarily suited to other countries. But as we study the Constitution our admiration for it should grow. The marvellous prosperity of the country, commercial and political, up to 1860, proved how well suited it was to our necessities, and the history of the years since the Civil War has shown how well grounded it is in the love of the people.

REVIEW QUESTIONS

THE NATIONAL GOVERNMENT

Origin and Nature

1. How was this country governed prior to the Revolution?
2. State the causes of the Revolution.
3. State the political effect upon the Colonies of the Declaration of Independence.
4. When was the Confederation formed? How long did it last? State its principal defects.
5. State when the Union was formed. Its fundamental difference from the Confederation. The chief differences in detail.
6. What is the difference between a Confederacy and a Nation?
7. Give some instances showing the partial retention of the federative principle in the National Government.

Legislative Department

8. Name the six objects of the Constitution stated in the preamble.
9. How many members are there in the House of Representatives?
By whom elected? For what term? How apportioned

among the States at first ? How apportioned now ? Qualifications ?

10. Answer the same questions as to the Senate.
11. What is the object of two legislative houses ?
12. Is the Senate or House of the higher dignity ? Why ?
13. How often does Congress meet ? When ? Define "A Congress."
14. By whom is impeachment made ? By whom tried ?
15. State the powers of each House as to its members, officers, quorum, adjournment, rules, journal, yeas and nays.
16. What privilege have members of Congress as to arrest ? Why ? As to liberty of speech ? Why ?
17. What bills may originate in the House ? In the Senate ?
18. State the reason for the provision as to revenue bills.
19. Name all the ways in which a bill, having passed both Houses, may become a law.
20. State the fundamental difference between Congress and a State legislature as to the origin and extent of their powers.
21. Name the subjects on which Congress may legislate.
22. What taxes may Congress lay ? For what purposes ?
23. From what source does most of the national revenue now come ?
24. Why has Congress the power to regulate commerce ? In what ways is it exercised ? Explain retaliation duties.
25. What is Protection ? Free Trade ? State the chief argument for each. Which is the policy of the United States ?
26. What is Registry of vessels ? Clearance and Entry ?
27. What is a citizen ? An alien ? Naturalization ?
28. What is a bankrupt law ? The power, why given to Congress ?
29. State the powers of Congress as to coinage ; as to weights and measures ; as to the Post-Office. Why given ?
30. What is a copyright ? A patent ? What are their objects ?
31. What powers has Congress as to piracy ? as to offences under international law ? Why given ?
32. Over what parts of the United States has Congress exclusive authority ?
33. Name some of the implied powers of Congress.
34. Who has the power to declare war ? Why ?
35. What are letters of marque ? What is prize ?
36. How is an army raised ? How does Congress control it ?
37. By whom may the militia be called out ? When ?
38. Name the prohibitions upon the United States.
39. What is habeas corpus ? A bill of attainder ? An *ex post facto* law ? An appropriation by Congress ?
40. State the reason for the prohibitions as to titles of nobility.
41. Name the prohibitions upon the States.
42. State the difference between money and legal tender.
43. What is legal tender in the United States now ?

Executive Department

44. What is the advantage of having but one President ?
45. By whom is he elected ? For what term ?

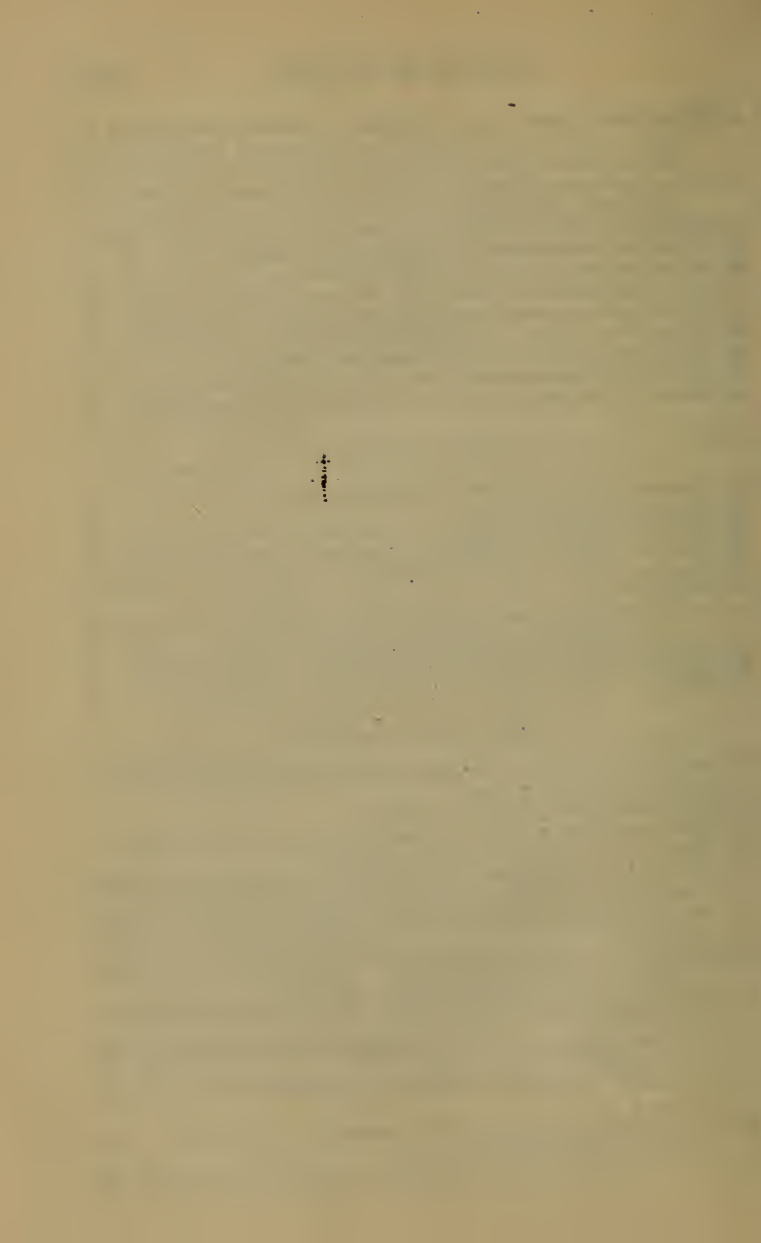
46. What other modes were proposed ? State the objections to them. What was the purpose of the present one ? Was its purpose accomplished ? Why ?
47. Are Presidential Electors elected or appointed ? By whom ? State their proceedings.
48. When does the House elect the President ? How does it vote ?
49. What are the President's qualifications ? Salary ?
50. What are the duties of the Vice-President ?
51. State the President's powers as to the army and navy, reprieves and pardons, treaties, and appointments.
52. What is the danger connected with this power of appointment ?
53. What is the purpose of the President's message ?
54. What is the most comprehensive duty of the President ?
55. Name the auxiliary executive departments, and their duties.

Judicial Department

56. Explain the necessity for a national judiciary.
57. Name the national courts.
58. Can the United States be sued ? Why ?
59. What is the Court of Claims ? How are its judgments enforced ?
60. Are the judges appointed or elected ? By whom ? For what term ?
61. State the three classes of cases in which the United States courts have jurisdiction, with the reason in each case.
62. What is treason ? What proof necessary ? Its punishment.
63. Name the crimes which the United States may punish.

Miscellaneous Provisions

64. State the provision of the Constitution as to the rights of citizens of one State in another.
65. How are fugitive criminals returned ?
66. What protection must the United States extend to the States ?
67. How may the Constitution be amended ?
68. When a law of Congress and a State law are antagonistic, which must prevail ? A law of Congress and a State constitution ?
69. What persons are obliged to take the oath to support the Constitution ?
70. How did the Constitution originally become binding on a State ? How does an amendment to it ?
71. How many Amendments are there ? What is the Bill of Rights ? Its purpose ?
72. State the substance of each amendment, when it was passed, and its purpose.
73. Can a State be sued by a State in a State court ? In a national court ?
74. Can a State be sued by a private person in a State court ? In a national court ? Why ?



THE GOVERNMENT OF ILLINOIS

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THE GOVERNMENT OF ILLINOIS

CHAPTER I

HISTORICAL SKETCH

THE SETTLEMENT OF NORTH AMERICA

1. English, French, and Spanish—The principal European settlements in North America were made by the English, the French, and the Spanish. The English settlers made their first homes at various places along the Atlantic coast, from Maine to Georgia. The French established themselves in Nova Scotia and New Brunswick (Acadia), on the banks of the St. Lawrence River and of the great lakes, at New Orleans, and at other points on the Mississippi River and its tributaries. The Spanish settled most of the West India islands, Florida, and all the vast country from California to the Isthmus of Panama.

St. Augustine, the first Spanish settlement on the mainland within the present limits of the United States, was founded in 1565. In 1607 the English made their first permanent * settlement at Jamestown, in Virginia. The French settled Quebec in 1608.

* A previous attempt at settlement in North Carolina had failed.

2. Hollanders and Swedes—New York was settled originally by people from Holland, and Delaware by Swedes. But later both of these colonies were seized by the English, and numbers of English settlers followed. Thus the whole Atlantic shore between Acadia and Florida was English.

3. Colonies of England—The land occupied by a settlement, or by a closely united group of settlements, was called a “colony.” The English made thirteen of these colonies along the sea-coast, the settlers as time passed on gradually pushing farther and farther inland. There were, in fact, more than thirteen at one time or another, but several were united at different times, so that in the end there were only thirteen. Each colony had a government quite separate from that of the others. It was this fact which distinguished the colonies one from another, and it was the fact of a common government which united several settlements into a single colony.

In the last years of the English dominion in what is now the eastern part of the United States, the thirteen colonies were New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

4. Colonies of France—The French had lost their colonies. Their settlements included Acadia, Newfoundland, Canada, and Louisiana, the last consisting of all the land between the Mississippi River and the Rocky Mountains. They claimed, too, all the land between the Mississippi and the Alleghanies, counting it sometimes as part of Louisiana and sometimes as part of Canada. The main French settlements were

at Quebec, Montreal, and New Orleans. They also had stations at Detroit, at Mackinac Island, at several points in the present States of Indiana and Illinois, and at various other places. But in a long series of wars between France and England the French were repeatedly defeated, and were finally compelled to give up all these colonies. Newfoundland, Acadia, Canada, and the land east of the Mississippi were yielded to England. Louisiana (comprising New Orleans and the land from the Mississippi to the Rocky Mountains) was ceded to Spain, to compensate that country for its losses in fighting as an ally of France. Florida, including not merely the State of that name but also the southern part of the States of Alabama and Mississippi, was given to England by Spain in exchange for Cuba, which the English had captured. The last treaty involving these great cessions of territory was made in 1763.

5. Government of the English Colonies — The thirteen English settled colonies were all governed in very much the same way. Each of them elected by a popular vote a legislature, which was empowered to make laws for the colony. The legislature might make any laws which were not contrary to the laws of England. In nearly all the colonies there were a governor and a number of judges for the law courts, appointed by the English king. In Connecticut and Rhode Island the people elected the governor and he appointed the judges. In Pennsylvania and Maryland the governor and judges were appointed by the English "proprietor," for these two colonies were the property of certain English families to which the king had given the land before it was settled.

6. Extent of the English Colonies—The territory which the colonies covered, or which they claimed to cover, was in many cases considerably more extensive than is that of the present States of the same names. Rhode Island, New Jersey, Pennsylvania, Delaware, and Maryland claimed no more land as colonies than they now have as States. But the present State of Maine was a part of the colony of Massachusetts. The present State of Vermont was claimed by New Hampshire and New York. Besides this, the colonies of Massachusetts, Connecticut, New York, Virginia, the Carolinas, and Georgia claimed that their western boundary was the Mississippi River.

The original English settlers obtained their legal title to the land from the king. The mainland of North America was discovered in 1497 by Cabot, an English voyager, who sailed along the coast from Labrador to some point near Florida. On the ground of this discovery England claimed to own the continent between the northernmost and the southernmost limits of Cabot's voyage, and as far west as the land extended—*i.e.*, to the Pacific. By existing English custom land so claimed was part of the royal domain, and hence directly controlled by the king and not by parliament. Accordingly, when companies were formed to effect settlement, it was from the king that they obtained a grant of the soil and of jurisdiction over it.

These grants of the king—"charters" they are usually called—in many cases defined the territory conveyed as extending clear across the continent to the Pacific Ocean. That was the case with the char-

ters of Massachusetts, Connecticut, Virginia, the two Carolinas, and Georgia. In 1763, however, the treaty by which France yielded to England all French claims in America east of the Mississippi contained also a stipulation whereby England in turn renounced her claim to any of the soil west of that river. The effect of this of course was to cut off the western extent of the colonies above noted at the great river.

It should also be observed that when the king gave New York to his brother, the Duke of York, in 1664, and Pennsylvania to William Penn, in 1681, he merely rescinded the Massachusetts and Connecticut grants of his predecessors so far as the land of the two former colonies was concerned. However, the two New England colonies continued to claim title to the land within the limits of their original grants west of Pennsylvania.

7. Independence of the Colonies—In 1775 the thirteen original English colonies, becoming dissatisfied with the government at London, and failing to obtain the concessions which they demanded, took up arms, and a long civil war followed. The colonies sent delegates to a Congress at Philadelphia for the management of their common concerns, and in 1776 this Congress declared the independence of the colonies, under the name of the “United States of America.” From this time the Americans dropped the term “colony,” the word “state” being substituted. The thirteen States in 1781 adopted a constitution for their common government, this document being called “Articles of Confederation.” Two years later the war came to an end, Great Britain recognizing the independence of the United States. Thus the Ameri-

can Republic became a nation, with a government of its own.

8. The Constitution—The Articles of Confederation proved very unsatisfactory. In order to form a better government a convention met at Philadelphia in 1787, the members being appointed by the legislatures of the various States, and agreed on a new plan, which they called the “Constitution of the United States.” This plan the States accepted, and in 1789 the government under this Constitution began its work.

9. Old States and New States—The States which adopted the Constitution were the thirteen which had united under the Articles of Confederation, which had declared their independence of Great Britain in 1776, and which had originally been British colonies. But one provision of the Constitution gave to the Congress power to admit new States into the Union.* This power Congress has exercised repeatedly, until now (1899) there are forty-five States, the old thirteen and thirty-two new ones.

THE WESTERN TERRITORY OF THE REPUBLIC

10. The West—Nearly all of these thirty-two new States at one time formed part of the territory which belonged to the Union as the property, not of the several States, but of the republic. That from which Illinois has been formed, however, was part of the western land which, before the War of Independence, was claimed by several of the colonies.

* U. S. Const., Art. IV., § 3.

11. Land Claims—The land enclosed by the Alleghany Mountains, the Mississippi River, and the great lakes was claimed by more than one of the colonies, and they continued their claim after they became States.

12. Massachusetts claimed the land west of New York as far as the Mississippi, between her northern and southern boundary lines, as laid down in her charter— $42^{\circ} 2'$ and about $43^{\circ} 43' 12''$ north latitude. This strip was not far from a hundred miles wide, and extended through the southern part of the present States of Michigan and Wisconsin and the northern part of Illinois. It included all of Illinois that lies north of the parallel $42^{\circ} 2'$ north latitude.

13. Connecticut claimed the land west of New York and Pennsylvania as far as the Mississippi, between her northern and southern boundary lines, as laid down in her charter— $42^{\circ} 2'$ and 41° north latitude. The strip was about sixty-two miles wide, and extended through the northern parts of the present States of Ohio, Indiana, and Illinois, and the southern part of Michigan.

14. Virginia claimed the land west to the Mississippi River, between the northern and southern parallels of latitude laid down in her charter—from the southern boundary of the present State of Virginia carried west as far as the Mississippi, to the parallel of 41° north latitude, and included between the Mississippi on the west and the present States of Virginia, Maryland, and Pennsylvania on the east. This covered all the State of Illinois south of the parallel of 41° .

By another explanation of the Virginia charter (of 1609), the northern boundary of her possessions was not a parallel of latitude, but a line beginning at a

point on the Atlantic coast two hundred miles north of Old Point Comfort and running northwest. This would have included the whole of Illinois within the Virginia claim.

Virginia had another claim which covered Illinois. When the Revolutionary War broke out, the few scattered settlements north of the Ohio River were held by British garrisons, and were made the starting-points of Indian raids against the American border settlements. In order to break up these raids, Virginia, in 1778, sent a small army of State troops under Gen. George Rogers Clarke to attack the British garrisons. The expedition was successful. Clarke captured the posts of Kaskaskia and Cahokia (in Illinois) and Vincennes (in Indiana), and thus when the war came to an end in 1783 a great part of the land beyond the Ohio was in the actual possession of Virginia. By reason of this conquest Virginia claimed title to all the territory from the Ohio to the great lakes. This claim also included all of Illinois.

15. The State of New York also claimed the territory west of the Alleghany Mountains, but on quite a different ground—treaties between New York and the Indian “Six Nations.” These were a confederacy of tribes living within the limits of the present State of New York. They were fierce and warlike savages, and before the American War of Independence had succeeded in overcoming their Indian neighbors on all sides. Their war parties roamed as far west as the Mississippi, and compelled the conquered tribes to admit some sort of supremacy of the victors. Then the authorities of New York made several treaties with the Indian confederacy, by which in turn that colony

acquired a supremacy over the Six Nations and their land. Accordingly New York claimed all the land which the confederacy had conquered, which meant about all the space enclosed by the Alleghanies, the great lakes, and the Mississippi. It will be seen that this, too, included all of Illinois.

16. Western Land Ceded to the United States—

These conflicting claims to the same land on the part of Massachusetts, Connecticut, New York, and Virginia led to many disputes and much trouble. Indeed there were other claims than those which have been detailed, which were settled only with great difficulty. But it was clear that the rivalry for the vast domain beyond the Ohio would strain the republic seriously. In fact, the State of Maryland, which made no claim to western land, would not consent to the Articles of Confederation until it was settled that the claimant States would cede their western territory to the Union. New York led the way in 1780, and the other States followed not long after. The Virginia cession was made in 1784, and comprised all the land northwest of the Ohio River. The cession of Massachusetts was made in 1784, and that of Connecticut in 1786. Thus the land included within the present State of Illinois came to be owned by the United States.

The cessions by the States, with some few exceptions, gave to the Union both the ownership of the soil and governmental jurisdiction over it. One of the exceptions was the stipulation that the white settlers (mostly French) already living in the ceded territory should continue to own the farms and homes which they already occupied.

THE GOVERNMENT OF THE CEDED TERRITORY

17. French Settlers—The first white settlers within the limits of Illinois were French. The main French settlements in North America, it will be remembered, were at Quebec and Montreal, on the St. Lawrence, and at New Orleans, near the mouth of the Mississippi. Communication between these remote points was effected by means of boats, which were paddled up the great lakes and up some stream which flowed into the lakes, were then carried overland and launched again in a stream whose waters flowed toward the Mississippi, and thus in time floated down the great river to New Orleans.

There were several of these routes between the lakes and the Mississippi, each with its "portage," as the path was called over which the boats were carried from stream to stream. One was up Green Bay and Fox River, and then down the Wisconsin River to the Mississippi; another was up the Chicago River, and down the Desplaines and the Illinois; another was up the St. Joseph's River, and down the Kankakee and the Illinois. There were also several ways of reaching the Ohio River from the lakes, one being by way of the Wabash River. The route by the Illinois River was a favorite one, as the streams traversed have a comparatively sluggish current, and their headwaters are so interlaced that the portages are not very long or difficult.

For the protection of these routes, as well as for the prosecution of the fur trade with the Indians, small settlements were established at various points. Among

them were Kaskaskia, on the river of that name near its junction with the Mississippi; Cahokia, on the Mississippi nearly opposite the present city of St. Louis; and Vincennes, on the Indiana side of the Wabash River. At each of these places was a fort with a garrison of French soldiers. The most elaborate French fort, however, was Fort Chartres, on the Mississippi between Cahokia and the mouth of the Kaskaskia. During the period of French control, the Northwest was sometimes a part of Louisiana, and so subject to the government at New Orleans; at other times a part of Canada, and so subject to the government at Quebec.

18. English Government—After the transfer of the territory to England in 1763, English garrisons replaced those of France (1765), and the government was in the hands of the military officers at the various posts. In 1774, however, an act of the British Parliament, the “Quebec Act,” extended the limits of Canada to the Ohio and the Mississippi. This made the Illinois country subject to the British military government at Quebec. However, the same act of Parliament extended over all the province the old French law, to which the people were accustomed.

19. A County of Virginia—In 1778 the Illinois country was occupied by Virginia troops, and the legislature of that State passed an act providing for a regular civil government. All the land north of the Ohio which Virginia claimed was formed into a county which was named “Illinois.” A military officer was appointed to take charge of the civil government, with the title of “lieutenant-commandant.” He organized courts of law, and acted as a sort of deputy governor, under the governor of Virginia. This arrangement

lasted until 1784, when Virginia ceded her land claims north of the Ohio to the United States. Congress did not immediately take any steps for the organization of the new territory, so for several years the settlers had practically no government, excepting such as they were able to provide for themselves.

20. The Ordinance of 1787—In 1787 Congress * at last took action for the proper government of the territory which had been ceded to the United States by the several States. The law which was passed was the famous “Ordinance of 1787.” All the ceded land bounded by Pennsylvania, the Ohio River, the Mississippi, and the great lakes was formed into a single territory to be known as the “Territory Northwest of the Ohio River,” more commonly known as the “Northwest Territory.” The government was to be in the hands of a governor, secretary, and three judges, to be appointed by Congress. The governor and judges were empowered to select from the laws of the existing States such as would be applicable to the Territory. It was provided that as soon as there should be five thousand free white persons of full age in the Territory, there should be a law-making body to be known as the General Assembly, which should consist of the governor and two houses, the Legislative Council and the House of Representatives. The members of the House of Representatives were to be elected by the people, the members of the Council, five in number, were to be appointed by the Congress from ten nominated by the House of Repre-

* The Congress under the Articles of Confederation—the new Constitution had not yet been adopted.

sentatives. The General Assembly by joint ballot was to elect a delegate to Congress, who should have the right to speak, but not to vote.

Another important stipulation was that the Territory in due time should be cut up into States, which should be admitted to the Union on an exact equality with the old States. These new States should be not less than three nor more than five in number. If there should be three States, the westernmost was to be bounded by the Mississippi, the Ohio, and Wabash rivers, and by a line drawn from Vincennes due north to the international boundary. It will be seen that if this plan had been adopted, Illinois to-day would have included all of Wisconsin, the upper peninsula of Michigan, and Minnesota east of the Mississippi. But it was also agreed that Congress might, if it thought best, form either one or two additional States from that part of the territory which should lie north of a due east and west line drawn through the most southerly point of Lake Michigan. Had this plan been exactly carried out, Illinois would have no part of the shore of Lake Michigan, but Chicago and nearly all of the northern fourteen counties of the State would be a part of Wisconsin.

21. The Northwest Territory—Congress appointed Gen. Arthur St. Clair, a Revolutionary veteran, as governor of the Northwest Territory. The first American settlement was made at Marietta, in the present State of Ohio, in April, 1788. In the following July Governor St. Clair arrived, and the territorial government was set in motion. One of his earliest acts was to create a county to include Marietta and the adjacent settlements, and to appoint officers

for its government. This county, which comprised all of the present State of Ohio east of the Scioto River, he named Washington. It is the oldest county in the States which have been formed from the Northwest Territory.

22. The Ordinance under the Constitution—In the spring of 1789 the new government of the United States under the Constitution went into operation. August 7th of that year Congress amended the ordinance of 1787, so that officers of the Territory to be appointed by Congress were thereafter to be appointed by the President with the approval of the Senate. President Washington at once reappointed Governor St. Clair.

23. The First American Laws—The first American laws which were supposed to be in force throughout the Illinois settlements were those selected by Governor St. Clair and the judges at Marietta in the summer of 1788. But, as a matter of fact, no provision was made at the outset for any legal organization in the remote parts of the Territory, and so the odd condition which had prevailed since 1784 continued for some time longer.

24. St. Clair County—In February, 1790, however, at the suggestion of President Washington, Governor St. Clair arrived at Kaskaskia, and proceeded to organize a suitable local government. He created a county, which was named St. Clair, embracing all of the present State of Illinois bounded by the Ohio, the Mississippi, and the Illinois rivers, and a line drawn from Fort Massac (on the Ohio) to the mouth of the Mackinaw River. Within this county courts of law were established, and a sheriff and county clerk

appointed. Cahokia was made the county seat. St. Clair County was the first within the limits of Illinois, and the courts and officers appointed by Governor St. Clair formed the first local government within Illinois under the laws of the United States.

25. Second Grade of Territorial Government—In 1798, the white population of the Northwest Territory having passed the minimum of five thousand prescribed by the ordinance of 1787, the governor and judges ceased to have legislative powers, a territorial legislature taking their place. This made what is known as the *second grade* of government for a Territory. The people elected their representatives to the lower house of this legislature, two of the twenty-two being chosen from the Illinois settlements. The legislature chose the secretary of the Territory, William Henry Harrison (afterward President of the United States), as delegate to Congress.

26. The Territory of Indiana—In 1800 the Northwest Territory was divided by act of Congress, the portion lying west of a line drawn from the Ohio at the mouth of the Kentucky River to Fort Recovery, and thence due north to the British boundary, being organized as the Territory of Indiana. The capital of the new Territory was put at Vincennes. The government of Indiana Territory was made of the first grade, like that of the Northwest Territory before 1798. President John Adams appointed the territorial delegate in Congress, William Henry Harrison, as governor of Indiana.

27. The Second Grade for Indiana—The act of 1800 provided that Indiana might have a government of the second grade whenever the people should so

vote. An election was held on that question in 1804, and the majority was in the affirmative. Accordingly Governor Harrison issued a proclamation calling an election for nine representatives to form the lower house of the legislature. This body was duly organized in 1805.

28. The Boundaries of Indiana Changed—When Ohio was admitted to the Union as a State (1802), the eastern boundary of Indiana Territory was moved to the east, the new line beginning at the mouth of the Great Miami River. In 1805 (January 11th) the northern part of Indiana Territory was cut off and formed into the Territory of Michigan. The southern boundary was a line drawn from the southernmost point of Lake Michigan east to Lake Erie ; the western boundary was a line drawn from the same southernmost point of Lake Michigan through the middle of that lake to its northern extremity, and thence due north to the British line. Indiana Territory thereafter included nearly all of the present States of Indiana and Illinois, together with all of Wisconsin and the eastern part of Minnesota.

ILLINOIS A TERRITORY

29. The Act of 1809—There was much discord between the eastern and western parts of Indiana. The settlements in the Illinois country and those about the Wabash River were separated by many miles of uninhabited land, and their interests were quite different. These facts led to an earnest movement in favor of a still further division of the Territory. Congress was finally induced to grant the request, and in 1809 (Feb-

ruary 3d) passed an act creating the Territory of Illinois. It was to take effect on the first day of March in that year. The Territory was bounded by the Mississippi, the Ohio, the Wabash, a line due north from Vincennes, and the British boundary. The government was to be of the first grade, like that originally put in force for the Northwest Territory and in the Territory of Indiana, with the proviso, however, that change might be made to the second grade whenever satisfactory evidence should be given to the governor that such was the desire of a majority of the freeholders (landowners). The capital was fixed at Kaskaskia. On the recommendation of Henry Clay, Judge Ninian Edwards, of Kentucky, was appointed governor of Illinois (April, 1809) by President Madison. In 1812 the Territory was advanced to the second grade of government, Congress, however, allowing both houses of the legislature to be elected by the people.

30. Population—At the time of the treaty of 1763, the French settlements in the Illinois country were estimated to number about 2,000 white people, with perhaps 900 negroes (mostly slaves). Many of these crossed the Mississippi in order to escape from the rule of their hereditary enemies, the British. After Clarke's conquest in 1778 American settlers began to come to the country, but for some years the immigration probably hardly exceeded the emigration of the old French settlers. In 1800 it was estimated that there were 2,000 whites in the Illinois country—1,200 French and 800 Americans. The census of that year gave a total population of 50,946 in the whole Northwest Territory, Indians, of course, not included.

When the Indiana Territory was formed, in 1800, it was supposed to contain about 5,000 whites, with perhaps 100,000 Indians. The Illinois Territory, in 1809, was conjectured to have about 9,000 whites. The census of 1810 showed a population of 12,282.

ILLINOIS A STATE

31. Enabling Act of 1818—After the War of 1812 migration flowed steadily into the Territory, so that by 1818 there were supposed to be 40,000 people. The census of 1820 gave Illinois 55,162. A petition from the people of the Territory for statehood was heeded by Congress, an act being passed April 18, 1818, defining the boundaries of the proposed State, and authorizing the people to hold a convention for the formation of a State constitution.

32. Boundaries of the State—The eastern boundary of the Territory had been altered slightly in 1816, when Indiana was admitted as a State. The line fixed at that time followed the middle of the Wabash River from its mouth, “to a point where a due north line drawn from the town of Vincennes would last touch the northwestern shore of the said river, and from thence by a due north line until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan.” *

In thus fixing the boundary of Indiana, two things are to be noticed. The first is, that the new line from the mouth of the Wabash was so drawn that no part

* Enabling Act for Indiana, 1816, § 2.

of the eastern shore should be in Illinois, a much more convenient arrangement than was afforded by the act of 1809. The second thing is that, contrary to the provision of the ordinance of 1787, Indiana was carried ten miles north of the east and west line drawn through the southernmost point of Lake Michigan. This was for the purpose of giving the new State a frontage on the great lake.

In the enabling act for Illinois, the eastern line was made the western line of Indiana. Then from the northwestern corner of that State the Illinois line was made to run east to the middle of Lake Michigan, thence north, along the middle of the lake, to the latitude of $42^{\circ} 30'$, thence west to the Mississippi River. Thence the line ran down the middle of the river to the Ohio, and thence along the northwestern shore of the Ohio to the point of beginning at the mouth of the Wabash.*

By the terms of the ordinance of 1787 the north line of the State would have been an east and west line drawn through the southernmost point of Lake Michigan; in other words, the line of north latitude, $41^{\circ} 37' 7.9''$. The northerly extension to $42^{\circ} 30'$ was for the sake of giving Illinois also a frontage on the lake. In later years the people of Wisconsin and those of the northern counties of Illinois remonstrated vigorously against the expansion of Illinois.

33. Illinois Admitted to the Union—The convention provided in the enabling act was duly elected by the people, and met at Kaskaskia in July, 1818. On the 26th of August a constitution for the State was

* Enabling Act for Illinois, § 2.

adopted by the convention, and on the 3d of December Congress accepted the same and declared Illinois duly admitted as a State of the Union. Meanwhile an election for State officers had been held, and the legislature met for organization in October. In January, 1819, the month after Congress had formally admitted Illinois to the Union, the legislature reconvened at Kaskaskia, and the machinery of State government was put in motion.

34. Constitution of 1818—The Constitution of 1818 was not submitted to the people for their approval. By its provisions not many State offices were elective. The people chose the governor, lieutenant-governor, and members of the two houses of the legislature, besides the sheriff and coroner in each county. The judges and nearly all other State officers were chosen by the legislature. The governor did not have the veto power. In various other ways the first Constitution of the State did not prove wholly satisfactory ; still it continued the supreme law of the State for thirty years.

35. Constitution of 1848—In 1847 a second convention was held and a new constitution was drawn up. This was referred to the people, and was ratified at an election held in March, 1848. The Constitution went into effect April 1st following.

36. Proposed New Constitution of 1862—In 1862 a third constitutional convention was held, and a revised constitution was submitted to the people, only to be rejected by a decisive majority.

37. Constitution of 1870—A fourth convention was held in 1869–70, and a fourth plan for a constitution was devised. This, the third Constitution which Illi-

nois has had, was adopted by vote of the people, July 2, 1870.

38. The State Capitals—The seat of the Territorial government of Illinois was Kaskaskia, and this was also the first State capital. The Constitution of 1818, however, provided that Congress should be petitioned for a grant of land on the Kaskaskia River, somewhat near the centre of the State (east and west), on which should be built a new town, which should be the seat of government.* Thereafter, and immediately, if the petition should be denied, the legislature was authorized to fix the capital at discretion.

Congress granted the petition, and commissioners appointed by the State Legislature selected the site on which the town of Vandalia was afterward built. As the land belonged to the State, lots were sold to private individuals, and with the proceeds public buildings were erected. The State archives were removed to Vandalia in December, 1820.

Before the twenty-year limit fixed in the Constitution of 1818 had expired, action was taken by the legislature again to change the location of the capital. The growth of population had been very great in the northern part of the State, and therefore an act was passed in 1837 fixing the seat of government at Springfield, where it has since remained. The change was actually made in December, 1839.

39. The Metropolis—Chicago at the outset was merely a United States fort—Fort Dearborn—which was situated on the shore of the Chicago River near the present Rush Street bridge. When the plan of

* Ill. Const. of 1818, Schedule, § 13.

the Illinois and Michigan Canal was adopted, a strip of land along its route, five miles wide on either side, was granted by Congress to the State of Illinois for the purpose of raising the money needed. In 1830 the Canal Commission had a portion of this land surveyed and laid out in town lots (p. 34). This was the town of Chicago, and the sale of these lots brought the first income to the canal project. At that time there were only seven families residing in the vicinity outside of Fort Dearborn. In 1831 Cook County was organized, with far more than its present area, and Chicago was made the county seat. In 1833 Chicago was incorporated as a village, the population being 350. In 1837 a city charter was obtained, the population at the city census in July of that year being 4,170. The population by the census of 1890 was 1,099,850, and by the school census of 1898 was estimated at 1,851,588.

CHAPTER II

THE LAND AND THE PEOPLE

1. Boundaries of Illinois—The State of Illinois is nearly surrounded by water—the Mississippi River on the west, the Ohio River on the south, the Wabash River on the east, and Lake Michigan on the north-east.

2. Rivers—The rivers which flow through the State have in most cases a southwesterly course, and empty into the Mississippi; the Rock, the Illinois, and the Kaskaskia being the principal ones. There are also some small affluents of Lake Michigan and of the Wabash and Ohio rivers. The Desplaines, one of the two streams which unite to form the Illinois, rises near Lake Michigan, and flows not far from the Chicago and Calumet rivers, affluents of the lake. The Indians and French explorers in the old days took advantage of this fact to carry their canoes over the short “portage,” and in this way to pass easily from the waters of the lakes to the waters of the Mississippi. The divide between these two systems of water communication is so low that the State has pierced it with a waterway—the Illinois and Michigan Canal—and a great drainage channel has also been cut, the effect of which is expected to be that the Chicago River will flow from the lake and will empty its waters into the Desplaines.

3. Surface and Soil—The surface of the State is quite level, being for the most part prairie with rich black soil and with few trees. Two lines of hills are found, one in the north and one nearly in the extreme south. The prairie soil makes the best of farm lands, and the agricultural riches of Illinois are among the greatest in the Union.

4. Coal and Lead—Bituminous coal is found in many parts of the State, and lead mines in the north-western part, near Galena.

5. Railroads and Manufactures—Railroads reach in every direction, making travel and the transportation of merchandise easy and comparatively inexpensive. Manufacturing industries of many kinds have sprung up and flourish, affording employment to many thousands of people. Thriving cities are found in every section—Chicago, on Lake Michigan, being the second city of the United States in population.

6. Indians—The earliest white settlers of Illinois, the French from Canada, found its prairies possessed by a number of Indian tribes. The most prominent were the Illinois Confederacy, from whom the river and the State have the name. This confederacy consisted of five tribes—the Tamaroas, Michigamies, Kaskaskias, Cahokias, and Peorias—and lived in the central and southern parts of the State. Besides these there were the Shawnees, near the Ohio; the Piankeshaws, in the southeast; the Sacs and Foxes, in the northwest, and the Kickapoos and Potawatamies, near Lake Michigan. These tribes have long since disappeared from the State, some few of their descendants being found in the Indian Territory and in reservations elsewhere.

7. French—The French settlements in Illinois were not very many or very large. They were merely a few villages of farmers and fur-traders scattered along the Illinois, the Kaskaskia, and the Mississippi rivers. Kaskaskia was the main settlement; Fort Chartres, on the Mississippi, was the chief stronghold. The total number of French inhabitants in 1765, when the British took possession, probably did not exceed 1,400, and that number was diminished rather than increased in later years. This did not include negro slaves, of whom there were several hundred.

8. Americans—After Illinois became a part of the United States, American settlers began to find out the value of its rich prairies, and so to come in considerable numbers. The only route followed for many years was by way of the Ohio River, and the early American settlers came mostly from Southern States—Kentucky, Tennessee, Virginia, and others. Their settlements were mainly in the southern part of the State. Later it became easier to travel by the great lakes, and immigrants came in that way from Northern and Eastern States.

9. European Immigrants—When the great tide of immigration from Europe to America set in, large numbers came to Illinois from almost every European country, Germany and the Scandinavian lands in particular. The railroads, too, brought a still greater population from Eastern States. The descendants of all these different classes of immigrants compose the people of Illinois to-day. But whatever their ancestry, they are all Americans now.

CHAPTER III

POLITICAL DIVISIONS OF THE STATE

1. Permanent and Temporary Divisions—For convenience of government the State is divided into a number of smaller areas. Some of these are relatively *permanent*—*i.e.*, they may be changed, and in fact are changed more or less, but at the same time there is no provision for their periodical change. Other divisions of the State are relatively *temporary*—*i.e.*, they are intended to be changed at rather frequent intervals.

A further difference between these two classes of subdivisions lies in the fact that in one of the permanent areas many functions of government are performed, while in one of the temporary areas there is generally but a single function.

PERMANENT DIVISIONS

2. Counties—First of all, the State is divided into *counties*. This is a division which the original English colonies introduced, copying it from England. It is now common to all the States. Louisiana calls the divisions *parishes*, it is true, but they are the same thing.

The first county established within the present limits of Illinois was St. Clair. This was organized by Gov-

ernor St. Clair, of the Northwest Territory, in 1790, and included all the land contained by the Mississippi, the Ohio, the Wabash, and the Illinois rivers and a line drawn from the Wabash to the mouth of the Little Mackinaw Creek, at its confluence with the Illinois.

Under the Constitution of the State, the power to organize counties belongs to the General Assembly. There are now 102 counties in Illinois.

The power of the Legislature is limited, however, by some specific requirements. No action may be taken which will make a county area to be less than 400 square miles. No changes may be made in county lines without the assent of the people concerned (Ill. Const., Art. X., §§ 1-3). The day of vast counties largely uninhabited is long since gone by, and changes are not likely, unless in a case such as that of Cook County, in which a great city population makes county government rather cumbersome.

Counties are always given a name, usually that of some man prominent in national, State, or local affairs (p. 123).

The village or city in which the principal functions of county government are performed is called the county seat. This place is fixed by the act of the General Assembly which creates the county. But no change of such place may be made unless with the assent of three-fifths of the voters of the county, and no county line may be made to run within less than ten miles of a county seat (Ill. Const., Art. X., §§ 1, 4).

3. Towns—For the further convenience of local government, any county whose people so desire is divided into *towns*.

4. Townships—In the State Constitution, and in a part of the statute enacted by the General Assembly, the term *township* is used as applied to these divisions of the county (Ill. Const., Art. X., § 5).* But at the same time both Constitution and statute also use the term *town* in the same sense (Ill. Const., Art. X., § 7).† As a matter of fact, *township* is a term properly used only in the sense of the United States land survey, and always means a piece of land six miles square (p. 31). Doubtless in the act of Congress for the land survey, as well as in the State Constitution as adopted in 1848, it was the expectation that as settlement was made the survey lines would coincide with areas which would be convenient for government. In that case *town* and *township* would be identical.

But it has turned out that in many cases it is inconvenient to have the two areas coincide, so that not a few towns are quite different geographically from Congressional townships, one *town* often containing portions of two or more *townships*. For this reason we shall speak of *townships* only in the sense of the land survey, and of the subdivisions of a county for purposes of local government always as *towns*. In this sense of the terms, it will be noticed, also, that *towns* are always named, while *townships* are always numbered.

At this time (1899) 83 of the 102 counties of the State are divided into towns.

5. How Towns Are Formed—A county may be divided into towns whenever a majority of the voters at a general election favor the proposition. In that

* Rev. Stat., c. 139, §§ 1-4.

† Rev. Stat., c. 139, §§ 5-8.

case it is the duty of the county board to appoint three commissioners for the purpose of making the division. The commissioners are to make the towns coincide with Congressional townships when it is convenient to do so.*

6. Names—The commissioners select names for the towns, following the wishes of the inhabitants, if they have definite wishes. But no two towns in the State may have the same name.†

7. The Land Survey—When the States began to cede their western lands to the United States, it became desirable to establish a uniform system of land survey, so that there should be no material difficulty in describing any portion which might be sold.‡

8. The Rectangular System—Congress appointed a committee, of which Thomas Jefferson was chairman, to consider the subject, and this committee recommended what is called the *rectangular system*. With some modifications the plan of the committee was adopted by Congress (1785), and that plan, with variations in detail, is the system which has been in use ever since.

9. Townships—The essence of the plan is merely to divide the public land into squares by a series of lines running north and south and east and west. These squares, each 6 miles on a side, or 36 square miles in area, are *townships*, usually called *Congressional townships*, because provided by act of Congress.

10. Sections—Each township is subdivided by a further series of lines into 36 squares, each containing

* Rev. Stat., c. 139, §§ 1-6.

† Rev. Stat., c. 139, § 7.

‡ Donaldson, pp. 178, 587.

one square mile, or 640 acres. These squares are called *sections*.

11. Quarter Sections—Each section in turn is divided into four *quarter sections*, and the quarter section is often further subdivided.

It will be noticed that all the survey lines are intended to run due north and south, or due east and west.

The sections in a township are numbered, beginning with Section No. 1 in the northeast corner, and counting west and then east, and so on alternately to No. 36 in the southeast corner.

12. How Townships Are Numbered—Townships are numbered according to their position with reference to a given north and south line and a given east and west line.

13. Principal Meridian—Through a convenient point, a meridian line is surveyed for a considerable distance north and south. This is called a *principal meridian*.

14. Base Line—Through the same initial point a line at right angles to the principal meridian is run for some distance east and west. This is called a *base line*.

A series of lines parallel to the principal meridian and six miles apart where they cross the base line, and another series of lines six miles apart and parallel to the base line, will evidently form townships about six miles square.

15. Ranges—A series of townships on the same side of the base line and equally distant in number of townships from the principal meridian is called a *range*. Ranges are described by their position east or west of the principal meridian.

DIAGRAM A
A TOWNSHIP AND ITS SECTIONS

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

DIAGRAM B
A SECTION SUBDIVIDED

	NE $\frac{1}{4}$		
SW $\frac{1}{4}$	$\begin{smallmatrix} * \\ * \end{smallmatrix}$	$*$	NE $\frac{1}{4}$ OF
	\dagger	$\dagger\dagger$	SE $\frac{1}{4}$
	S $\frac{1}{2}$ OF SE $\frac{1}{4}$		

1. A *section* is divided into four quarter sections, of 160 acres each, described by the points of the compass; *i.e.*, the northeast quarter = NE $\frac{1}{4}$.

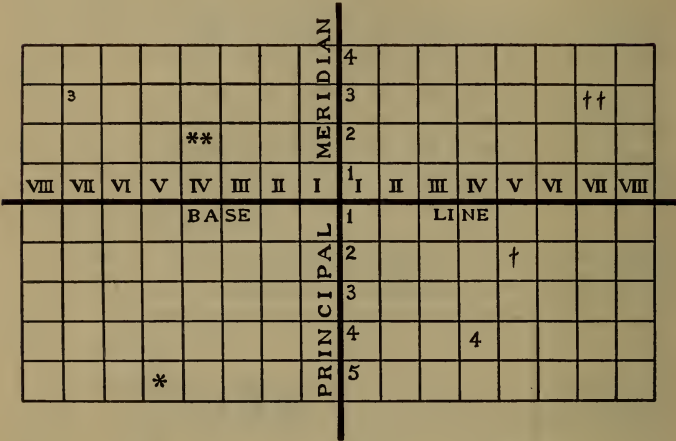
2. A *quarter section* is further subdivided, and the subdivisions are also described with reference to the points of the compass.

3. Describe the divisions marked $\begin{smallmatrix} * \\ * \end{smallmatrix}$, $*$, \dagger , $\dagger\dagger$, and give the area of each.

It is suggested that other problems be given by the teacher until the pupils thoroughly understand the system of land surveys and designations.

Townships within a range are numbered from the base line, north and south.

DIAGRAM C



The description of townships with reference to a principal meridian and its base line; *e.g.*, township 3 north in range VII. west of the given principal meridian; township 4 south in range IV. east of the given principal meridian.

In this way describe the townships marked *, **, †, ††.

The first survey of Chicago for town lots in 1830 (p. 24) was described as follows: The south half of section 9 of township 39 north in range XIV. west of the third principal meridian. This is the area included by State, Kinzie, Desplaines, and Madison streets.

16. Convergence of the Meridians—It was said that the two series of lines above described would form townships “about” six miles square. That these townships would not be exactly square is due to the fact that as the meridians run north they converge. Therefore it is evident that the east and west boundary

lines of a township are not quite parallel, that the township is not quite square, and that no township will contain exactly thirty-six square miles.

Further, it is evident that in only a part of the townships is it true that even the southern boundary line is six miles long. In the ranges lying north of the base line, for instance (Diagram C), only the townships resting on the base line have a six-mile southern line. The southern boundary of each other township in the range is shorter than the corresponding line of the township immediately south.

If the survey should be carried on without regard to these facts, it is plain that the convergence of the meridians would, at a considerable distance north from the base line, result in making townships of very much less than thirty-six square miles, while if the southern ranges should begin six miles wide on the base line, the divergence of the meridians south would correspondingly increase the area of the townships on that side.

To remedy these difficulties, the following plan is devised:

17. Correction Parallels—Every twenty-four miles north of the base line, and every thirty miles south of it, parallels of latitude are drawn through the principal meridian. These are called *correction parallels*, and extend east and west from the points at which they intersect the principal meridian. Each of these parallels forms a new base, on which are laid off the southern sides of the series of townships immediately north of it. As the full six-mile extent is used in laying off these southern sides, it is evident that with each correction parallel the whole process begins over

again. In this way the loss occasioned by the convergence of the parallels is prevented from going on perpetually increasing.

18. Guide Meridians—As a further convenience, at every forty-eight miles on the base line, reckoning both ways from its intersection with the principal meridian, a new meridian line is surveyed north and south. These are called *guide meridians*.

19. The Principal Meridians—The principal meridians from which the public land of the United States is surveyed are not at uniform distances apart, being drawn merely through such points as may be most convenient.

The first principal meridian is the boundary line between Ohio and Indiana, being drawn from the Ohio River north on the line of $84^{\circ} 51'$ longitude west from Greenwich. Ohio lands are surveyed from this line.

The second principal meridian extends through Indiana, from the mouth of the Little Blue River to the northern boundary of the State, on the line of $86^{\circ} 28'$ west longitude. From this line are surveyed the lands of Indiana and a part of those of eastern Illinois.

The third principal meridian starts from the mouth of the Ohio River, and extends to the northern boundary of Illinois, on the line of $89^{\circ} 10' 30''$ west longitude. From this line are surveyed (1) all the lands of Illinois east of it, excepting those which are surveyed from the second principal meridian; and (2) all the lands lying west of the third meridian but east of the Illinois River.

The fourth principal meridian extends from the middle of the channel at the mouth of the Illinois River north to the Canada boundary, on the line of

90° 29' 56" west longitude. From this line are surveyed all the lands of Illinois west of the Illinois River and (on the north of that river) all the lands west of the third principal meridian. The fourth meridian is also used for Wisconsin and Minnesota surveys.

Still farther west are two other principal meridians, the fifth and the sixth. Others are named instead of being numbered—the Michigan meridian, the Tallahassee meridian, the Montana meridian, for instance. There are eighteen which are named.

20. Illinois Base Lines—The base line of the third principal meridian, from which most of the land of Illinois is surveyed, crosses the State from the Wabash River in Wabash County to the Mississippi in St. Clair County. The base line of the fourth principal meridian extends from the Illinois River in Schuyler County to the Mississippi in Adams County.

21. Illinois Surveys from Second Principal Meridian—It is only a narrow strip of towns and fractional towns at the eastern edge of the State which is surveyed from the second principal meridian. Its base line is on the same parallel as that of the third meridian.

22. School Townships—It has been seen that in dividing counties the towns are to coincide with the townships of the United States survey as far as may be practicable. In many cases, however, the town and township lines do not coincide. The State school law, however, makes the Congressional township, and not the town, the unit of administration. Hence a school township always coincides with some Congressional township.*

* Rev. Stat., c. 122, § 30.

23. Cities and Villages—The division of the State into counties and towns, as has been explained, is for convenience of local government, while the divisions made by the land survey are mainly for the purpose of identifying parcels of land when they are sold. As people come to live quite near one another, however, rather than on scattered farms, a different sort of government becomes necessary from that which answers for counties and towns. For this reason the State law provides a plan for governing cities and villages, and certain areas are laid off and included within the limits so governed. The only real difference between a city and a village is that the former usually has more people than the latter.

A village is usually included within the limits of a town, if the county is divided into towns. A city may cover the whole or parts of several towns. Chicago, for instance, comprises within its limits seven entire towns of Cook County, and parts of others.

We class cities and villages within the permanent political divisions of the State, because a given municipality being once formed it is not intended that it shall be wiped out. Provisions are made in the law for extending the limits of cities and villages in order to keep pace with the spread of population, and in this way many of the cities, especially, have grown to a very great extent.

24. Wards—A city council is empowered to divide the city into *wards* for further convenience. The ward should, perhaps, strictly be classed among the temporary political divisions, but it is put here for convenience. The number of wards in a city may be

one-half the number of aldermen to which the city is entitled, but in no case may exceed 35.*

25. Park and Drainage Districts—The law of the State provides for the formation of *park districts* and of *drainage districts*, the affairs of which in each case are controlled by a board of commissioners. These boards are, so far as their immediate purposes are concerned, quite independent of other local authorities.†

TEMPORARY DIVISIONS

26. There is a second class of political divisions of the State which are intended as a rule for but a single purpose of government, and which may be changed quite frequently. These we may call *temporary divisions*.

27. Congressional Districts—The State is entitled to a certain number of members in the Federal House of Representatives, the number depending on the population of Illinois compared with the total population of the United States. After each decennial national census Congress passes a new law fixing the number of representatives to which each State is entitled. Under the law based on the census of 1890 Illinois has twenty-two. The act of Congress requires that these shall be elected in separate districts, and permits the State Legislature to form the districts under certain conditions (p. 197-8). These conditions are, that the several districts shall be compact and composed of contiguous territory, and that as nearly as may be practicable they shall have an equal number of inhabitants.

* Rev. Stat., c. 24, §§ 51, 30.

† Rev. Stat., c. 105, c. 42.

Districts are formed by joining several contiguous counties or by dividing counties. After each national reapportionment of congressmen the Legislature makes a totally new division.

28. State Senatorial Districts—The Upper House of the State Legislature of Illinois contains fifty-one members. The State Constitution requires that these shall be elected in districts, and that the Legislature shall apportion the State into these fifty-one districts every ten years—*i.e.*, after the decennial census (Ill. Const., Art. VI., § 6). The Constitution also requires that the districts shall be formed of compact and contiguous territory, and that they shall contain, as nearly as practicable, an equal number of inhabitants. Counties may not be divided between different districts, excepting counties of so large population that they are each entitled to two or more senators. No district which contains an entire county can contain a part of any other county. Cook is the only county which is divided under the present law.

29. Judicial Districts—Supreme Court—The Supreme Court of Illinois consists of seven judges, elected by the people in as many judicial districts. The State Legislature is empowered to alter the districts at will, subject to the same limitations as in the case of senatorial districts, and to a further limitation as to the time of alteration (Ill. Const., Art. VI., §§ 2, 5).*

Until 1897 the State was divided into three grand divisions, in each of which successively the Supreme Court met. These grand divisions were abolished, however, by act of the Legislature in 1897, and the

* Rev. Stat., c. 37, § 2.

Supreme Court now meets only at Springfield (Ill. Const., Art. VI., § 4).*

30. Judicial Districts—Circuit Courts—The next class of courts below the Supreme Court is the Circuit Court. Cook County forms one judicial circuit (Ill. Const., Art. VI., §§ 13, 15).† The Legislature has the power to form the rest of the State into judicial circuits, provided that the total number shall not exceed one circuit for every one hundred thousand of population in the State. The circuits must be of contiguous and compact territory, and as nearly as possible equal in population. County lines must not be divided.

The present law divides the State outside of Cook County into thirteen circuits. In each of these circuits are elected three circuit judges, who hold court successively at the various county seats within the circuit.

31. Election Precincts and Districts—For convenience of elections counties are divided into *precincts*. In counties under town government the town is the precinct. In other counties it is the duty of the county board to determine the precincts.

If any precinct has more than 450 voters it is the duty of the county board to divide such precinct into *districts*, in such way that each district shall contain as nearly 400 voters as may be practicable, and in no case more than 450. Districts must be composed of contiguous territory, and must be as compact as the convenience of the voters will allow. In the month of July, after each general election held in November,

* Rev. Stat., c. 37, § 1.

† Rev. Stat., c. 37, § 72.

the county board may make a readjustment of election districts, whenever it appears that any precinct or district contains more than 450 voters.*

32. School Districts—The school township (p. 156) is managed by a board of school trustees. It is in the power of this board to divide the township into *districts*, for the convenience of school attendance.† On petition of the legal voters interested, the board may change such districts as may be most convenient.‡ If the board denies the request of the petitioners, appeal may be taken to the county superintendent, who may make the change if he thinks best.

33. City Districts—In cities whose schools are controlled by a board of education the division into districts is in the power of that board. In this case no petition by the voters is necessary, and there is no appeal to the county superintendent.

* Rev. Stat., c. 46, §§ 29, 30. † Rev. Stat., c. 122, §§ 75-78.

‡ Rev. Stat., c. 122, §§ 83-85.

CHAPTER IV

THE STATE GOVERNMENT—THE CONSTITUTION

1. The Constitution of Illinois provides a plan for the government of the State. To understand this plan, then, we must first of all consult the Constitution.

As we have seen (p. 22), the State has had three Constitutions. The one now in force was drawn up by a convention which was elected by the people in 1869, and met at the State capital, Springfield, December 13, 1869, to May 13, 1870. The Constitution which this convention proposed was submitted to the voters of the State at an election held for that purpose July 2, 1870. At the election there were 154,227 votes for the proposed Constitution, and 35,443 votes against it. Thus it was accepted by the voters and became the State Constitution in place of the one which had been the law since 1848.

THE PREAMBLE

2. In the Constitution of the United States, and in that of each of the States, there is a sort of preface called a *preamble*. In fact, however, this is by no means either a preface or a preamble—each of which terms implies something not essential, the omission of which would be unimportant.

3. Its Essential Part—the Enacting Clause—The preamble of a constitution contains that which is vitally important—the *enacting clause*, as it is usually entitled. In the Illinois preamble the enacting clause is as follows: “We, the people of the State of Illinois . . . do ordain and establish this Constitution for the State of Illinois.” This is all that is really necessary. It contains a statement of four important facts: (1) *Who* it is that make the law—the *people* (*i.e.*, the voters); (2) *what* it is which the people make law—*this Constitution* (*i.e.*, the one drawn up by the convention of 1869–70); (3) *for whom* the Constitution is adopted—the *State of Illinois* (*i.e.*, all the people within the State boundaries); (4) *the act* by which the Constitution becomes law—the people *ordain and establish* it (*i.e.*, it is the *will* of the people that it shall be law).

4. Its Non-essential Parts—The remaining clauses in the preamble are legally non-essential, and are inserted to indicate the spirit and purposes with which the Constitution was adopted.

5. The Recognition of God—One of them contains a reference to God as the giver of all blessings. The Federal Constitution of the United States and the Constitutions of many of the States contain no such clause. There is a difference of opinion as to its importance. Some favor it because it is a public and formal recognition of religion. Some hold it unnecessary to embody such recognition in a legal document. Others oppose it on the ground that religion should be a personal and not a political matter.

The remaining non-essential clauses, almost exactly copied from the Federal Constitution, express the purposes of the fundamental law—“to form a more perfect

government, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.”

The expression of these purposes, as has been explained, is not legally essential. The preamble to the Constitutions of Louisiana adopted in 1845 and in 1852, for instance, is merely this: “We, the people of Louisiana, do ordain and establish this Constitution.” This is merely an enacting clause.

THE TERRITORY

6. Boundaries—Article I. defines the boundaries of the State. It will be noticed that a part of this boundary line runs along the middle of Lake Michigan, another part along the middle of the Mississippi River, and a third part not along the middle, but along the northwestern shore, of the Ohio River. Usually when bodies of water like lakes or rivers separate different political divisions, the boundary line runs in the middle of the lake or stream—*i.e.*, midway between the banks in case of a lake, in the middle of the channel or current of a river. But when Virginia ceded to the general government the land which General Clarke conquered, the act of cession read: “The tract of country within the limits of the Virginia Charter . . . northwest of the Ohio River.” Of course, then, this gift included no part of the river itself. Hence the northern line of Kentucky (which was a part of Virginia until 1792) follows low-water mark on the north bank of the Ohio.

The proviso at the end of Article I. relates to the

fact that Illinois controls no part of the Ohio River except by special agreement with Kentucky.*

THE PEOPLE

7. The People for whom the Constitution was adopted, and who are subject to it as law, are all the people within the State boundaries. Those who live in the State are subject to the Constitution all the time, and people visiting, or for any purpose temporarily residing, in Illinois, are subject to the Illinois Constitution and laws while here. Hence it is that *all* the people within the State are bound to obey its fundamental law.

8. The State—When we speak of “the State of Illinois” we may mean one of three different things.

We may mean the land comprised within the State boundaries. This is the geographical sense of the term.

We may mean all the people within these boundaries. It is partly in this sense that the preamble says that the Constitution is ordained and established “for the State of Illinois.”

We may mean merely the voters in the State. This is what is meant in the preamble by its opening words: “We, the people of the State of Illinois.” The people who decided at the polls that the Constitution proposed by the Convention of 1869–70 should be adopted were those who under existing laws were entitled to vote. So, when we say that “the State of Illinois” adopts a Constitution, we refer to the voters.

9. The Political People—For convenience, we may call the voters the political people. They determine

* Rev. Stat., p. 23.

what shall be the Constitution. They elect the principal officers of the government, as we shall see later. Thus they decide the important political questions which have to be settled.

10. Qualifications of Voters—The Constitution prescribes the qualifications of voters. This is merely another way of saying that the Constitution defines the political people. The qualifications in question are found in Article VII. On examination they will be found to be four—citizenship, sex, age, inhabitancy.

A citizen of the United States is any person “born or naturalized in the United States and subject to the jurisdiction thereof” (U. S. Constitution, Amdt. XIV., Sec. 1). In some States persons of foreign birth are allowed to vote if they have taken out their first papers preliminary to naturalization (Pt. I., p. 27). Of course, such persons are not yet citizens, and are still subjects of the country in which they were born. But no person who owes allegiance to a foreign government is permitted to vote in Illinois. This should be the law in every State, and probably will be.

Male citizens of the United States, above the age of twenty-one years, who fulfil the other conditions, are entitled to vote at all elections.* This does not imply that women may not vote at any elections, and the State law permits women to vote for school officers, regents of the State University, county superintendents of schools, and school trustees. Many people believe that women ought to vote at all elections on the same terms as men, and several States (Colorado, Utah, Wyoming) grant such permission.

* Rev. Stat., c. 46, § 332.

The age of twenty-one is that long established by law as the period at which a young man reaches his majority. His previous years are those of his minority. A minor is not wholly independent, and is not capable of performing certain legal acts, like making a contract. This, then, seems a convenient age for acquiring the right of suffrage along with other legal rights.

The requirement of residence is that to be entitled to vote at a given election one should have resided in the State one year, in the county ninety days, and in the election district thirty days next preceding such election. In order to vote intelligently on State questions, it is plain that usually one will need to live in the State long enough to know something about those questions; and in order that one's right to vote may be well understood it is necessary that the residence in county and district may be long enough for the intending voter to be known by his neighbors.

Sections 4 and 5 (Ill. Const., Art. VII.) make some special limitations with regard to deciding what constitutes residence.

The remaining provisions of Section 1, in Article VII., are merely for the purpose of not disfranchising any one who was permitted to vote under the preceding Constitution.

11. Domicile—One's residence is the place of his home—where he lives. The legal term for this place is the *domicile*. But as people, especially in our country, are frequently moving about from place to place, sometimes for business, sometimes for mere pleasure, it is not always easy to decide where the real home is. As a practical way of settling the question, it is usu-

ally held that one's domicile is the place where he is living without having in mind a definite time for leaving it.

But men who are in the service of the Federal government, whether as soldiers or sailors or in the civil service, are liable at any time to be sent to any place where the government needs them, entirely irrespective of their own wishes. Under the Constitution of Illinois such persons neither gain nor lose domicile in the State by reason of government service.

12. Infamous Crimes—In Section 7 there is a further limitation of the right to vote—that right being denied to any persons convicted of an infamous crime. By an infamous crime is meant one the penalty for which is imprisonment in a penitentiary or death.

13. Method of Voting—As the people—*i.e.*, the political people—are the source of all law, it is important that the method of ascertaining their will should be carefully guarded. It is the American theory that the majority shall rule—that the will of a majority shall be considered to be the will of all. But for many purposes it is thought just as well that a majority—which is not always easy to secure when there are several propositions or candidates in question—should not be required, and that a mere plurality shall suffice. Whether it is a majority or a plurality which is sought, it is necessary that the people should cast their votes in such a way, and that when cast they should be counted and reported in such a way, that there can be no doubt as to the exact facts.

The Constitution provides (Art. VII., § 2) that all votes shall be by ballot. In the old times, both in England and in the colonies, a very different method

was practised. A list of the voters was prepared, and at the time set for voting each one came in person before the election officers, answered to his name, and gave his vote audibly. This is called the *viva voce* vote. Of course it was publicly known just how every man voted. This fact made it easy to bribe or to intimidate voters, and to prevent these results the secret ballot has taken the place of *viva voce* voting.

14. The Australian Ballot—Under the laws as they now exist in Illinois it is very easy for any voter to cast his vote in entire secrecy. Care is also taken to insure both accuracy and honesty in counting the votes and in reporting the totals. The system of voting is commonly called the *Australian* system, as it was devised and first used in Australia.

The essentials of the Australian system of voting are these: the ballots are furnished by the government, none other being permitted; the voter while marking his ballot stands in a little booth behind a curtain, so that no one can see what names he marks; no electioneering is allowed within a hundred feet of the polling place.*

15. Nominations—In order to print the ballots in time for the election, political parties must make their nominations for the various offices early enough to file thirty days before the election. Nominations for offices within a county are filed with the county clerk, others with the secretary of state.

Nominations are usually made by political conventions. Any party which at the last preceding general election cast two per cent. of the votes is entitled to

* Rev. Stat., c. 46, §§ 288-323.

have the names of its candidates on the official ballot. Other nominations may be made also by petitions signed by a reasonable number of persons—1,000 in case of a State office, and for other offices a number proportionally less. Such nominations are entitled to a place on the ballot.

16. Voting—The names of candidates are arranged on the ballot in columns, those of one political party being in a single column, headed by the party name. Before this name is a small circle, and before the name of each candidate is a small square. The voter who wishes to vote for the entire ticket of a party places a cross (X) in the proper circle; otherwise he places a cross in the square preceding the name of each candidate for whom he wishes to vote. He may if he chooses write in the name of a new candidate and place a cross before it. After being marked the ballot is folded and placed in a box which is in charge of the election officers.

A sample ballot (in part) is appended :

○ DEMOCRATIC ○ REPUBLICAN ○ PROHIBITION

For Governor

For Governor

For Governor

☐

JOHN M. PALMER

☐

JOSEPH W. FIFER

☐

DAVID H. HARTS

For Lieutenant-Governor

For Lieutenant-Governor

For Lieutenant-Governor

☐

ANDREW J. BELL

☐

LYMAN B. RAY

☐

JOSEPH L. WHITLOCK

For Secretary of State

For Secretary of State

For Secretary of State

☐

NEWELL D. RICH

☐

I. N. PEARSON

☐

JAMES R. HANNA

17. The Voting Machine—A very curious voting machine has been invented, which may take the place

of the Australian ballot as above described. The machine is placed within a booth, so that the voter can indicate his choice in private. The names of candidates are arranged on the face of the machine just as on an Australian ballot. In place of the circle and squares there are little knobs. By pressing on these knobs the voter records within the machine his vote, either for his entire party ticket, or for individual candidates, as he may prefer. Pressing on the knobs also locks the machine, so that no other vote can be recorded until the voter has left the booth. When the election time has expired the machine is locked, and no more voting can be done. The election officers then open a door at the back, and there they find an exact record of the number of votes cast for each candidate. This machine secures entire accuracy in estimating the returns, and saves very much time. It often takes the election officers hours to count the Australian ballots, while the machine keeps tally as fast as the voting is done.

HOW A CONSTITUTION IS MADE OR ALTERED

18. The Two Processes—Making a new Constitution, and making an alteration in an existing one, imply two quite distinct processes. One is to draw up a Constitution, or an amendment, in a definite form. The other is to decide that the Constitution or amendment thus drafted shall be adopted as law—*ratified*, as it is usually expressed.

Alteration of an existing Constitution may be comparatively slight or quite extensive. The process employed in our States usually differs accordingly.

19. Conventions—For forming a new Constitution, or for extensive amendment of an existing one, it is customary to hold a *convention*. This is a body composed of delegates elected for the purpose by the voters of the State.

20. The Legislature—Comparatively slight amendments are usually drafted by the State Legislature. For this purpose it is thought that a State convention is needless, both on account of the expense and of the time necessarily involved.

21. The People Ratify—In either case, however, it is almost uniformly the practice to submit propositions of amendment, whether drafted by a convention or by the State Legislature, to a vote of the people for ratification. It is this ratification which makes the proposed amendments law.

22. Ratification by the People not always Required—In some States, however, the work of conventions has not been submitted to the people, on the ground that in electing a convention the people virtually entrust that body with full power to act. The first Constitution of Illinois was adopted in this way (p. 22).

The Illinois Constitution of 1848, however, required that for making a new Constitution a convention should be held, and that the results of its action should be submitted to the people for their approval. That is the way in which the present Constitution was adopted.

23. An Illinois Convention—A constitutional convention may be held in Illinois, provided that the State Legislature, by a vote of two-thirds of the members of each house, decides it to be necessary ; and

provided further that at the next general election a majority of those voting at that election approve (Ill. Const., Art. XIV., § 1). The Constitution or the amendments proposed by the convention are then submitted to the people at a special election held for that purpose, and require for ratification a majority of those voting at that election.

24. Amendments—Amendments may also be made on proposition of the Legislature by a vote of two-thirds of the members of each house, provided that such proposed amendments receive the approval of a majority of the voters at the next general election (Ill. Const., Art. XIV., § 2). There are two important restrictions on this second method of amendment. The first is that amendments may not be proposed to more than one article of the Constitution at the same session of the Legislature. The second is that amendments may not be proposed to the same article oftener than once in four years. These restrictions make it very difficult to amend the Illinois Constitution at all.

THE STATE GOVERNMENT AND ITS BRANCHES

25. Government Defined—Government is the agency of the people for performing certain duties which are necessary to the general welfare. Among these duties are the making of laws, the prevention and punishment of crime, decision as to the rights of people with reference to one another, and the protection of people in their rights. For the performance of these and other similar duties, the Constitution of Illinois provides for the formation of a government, and entrusts to it, in its several branches, various powers.

26. The Branches—It is a common principle of political science in the United States that government should be separated into three branches, or departments: the *legislative*, the *executive*, and the *judiciary*.

The legislative branch of the government makes laws, the executive administers the laws, and the judiciary decides what the laws mean, and what are the rights and duties of individuals under the laws. The three are sometimes called the *law-making*, the *law-enforcing*, and the *law-interpreting* branches of government.

The Illinois Constitution forbids any one of these departments to perform duties which naturally belong to one of the others, unless the Constitution itself permits (Art. III.).

CHAPTER V

THE STATE GOVERNMENT—THE LEGISLATURE STRUCTURE

1. The Legislative Department (or *Legislature*) is called the *General Assembly*. It consists of two distinct bodies, the *Senate* and the *House of Representatives* (Ill. Const., Art. IV., § 1). They are sometimes called the Upper House and the Lower House. No measure can become a law unless it receives the approval of both houses.

2. Bicameral Legislatures—A legislature which consists of two houses is called *bicameral* (from the Latin “bi,” *two*, and “camera,” *chamber*; the houses, as we call them, are called *chambers* in Europe). A legislature of but one house is called *unicameral* (“uni” is the Latin for *one*). The Congress of the United States and the legislatures of all the States are bicameral. We shall see later that for the Illinois counties and cities there are unicameral legislative bodies.

3. Advantages—The main advantage of a bicameral legislature is the fact that every plan for a law has to be debated and voted in two separate bodies. In this way any defects which are overlooked in one house are likely to be detected in the other. On the

other hand, a unicameral legislature is less expensive and can do its work in less time.

4. Differences in the Structure of the Two Houses—In order to make the two houses quite different from each other, they have not the same number of members, the same term of office, and not quite the same constituency. The Senate in Illinois has one-third as many members as the Lower House. The senators are chosen for four years, the representatives for two years. Each senator is chosen by a majority (or plurality) of the votes in his district, while the representatives are chosen in accordance with a peculiar provision called minority representation, which will be explained later.

The powers and duties of the two houses are very nearly the same.

5. Apportionment—There are 51 senators and 153 representatives in Illinois. Each senator is chosen from a district, which consists of one or more counties (or parts of a county). It is the duty of the Legislature each ten years (after the census) to make a new apportionment of Senate districts, making them as nearly equal in population as possible. In order to do this, the population of the State, as ascertained by the last census, is divided by the number of senators, 51. The quotient is the *senatorial ratio*, and the population of each district should be as nearly equal to the ratio as practicable. Very populous counties (like Cook) have to be divided, and have two or more senators.

6. Gerrymandering—In arranging Senate districts it is often possible to put counties together in such a way that one political party has an advantage, and is likely to have a majority in each house of the Legisla-

ture even if the other party has a majority in the State at large. This is called *gerrymandering* (from Elbridge Gerry, once governor of Massachusetts, who has been credited—erroneously, it is now thought—with devising the scheme).

In order to make gerrymandering difficult, the Constitution requires Senate districts to be formed of contiguous and compact territory, bounded by county lines, and to contain as nearly as practicable an equal number of inhabitants (Ill. Const., Art. IV., § 6).

7. Proportional Representation—These requirements, however, do not make gerrymandering impossible. There are some who think that the only way to prevent it, and the only way to ensure fair representation of different opinions among the people, is to abolish the senatorial districts altogether. Members of the Legislature would then be elected by the whole State on a general ticket, and each political party would be entitled to such a proportion of the whole number as the vote cast by that party is of the whole vote cast in the State. This is the plan of *proportional representation*. There are several different ways suggested for working out its details.

8. General Elections—A general election for the choice of members of the Legislature is held on the Tuesday after the first Monday in November of every even-numbered year. The first under this plan was held in 1872 (Ill. Const., Art. IV., § 2).

9. The Senate Changed Gradually—At the election in a year the number of which is divisible by four, the senators from the odd-numbered districts, twenty-six in number, are chosen. At the intervening election, the senators from the even-numbered districts,

twenty-five in number, are chosen. In this way about half the Senate is renewed each two years. This makes the Senate a *continuous* body.

10. The Lower House Changed Totally—At each general election the entire number of representatives are chosen, three from each Senate district. As the term is two years, it is seen that the House of Representatives, unlike the Senate, is wholly renewed at each election.

11. Minority Representation—The three representatives chosen in each Senate district are elected on a general ticket in that district, in the following manner:

Each voter has three votes. He may cast one vote for each of three candidates, or two votes for one candidate and one for another, or all three votes for one candidate, or one and one-half votes for each of two candidates. By this means it is intended that no political party shall be able to elect all three of the candidates in any one district. Thus is secured representation for the minority party (Ill. Const., Art. IV., §§ 6, 7, 8).

In order to put the above system in motion, the Constitution of 1870 made some special provisions, which will be found in Article IV., Section 6, and in the Schedule, Sections 13, 14, 15, and 16.

If a vacancy occurs in either house, by the death or resignation of a member, or otherwise, a special election is held to fill that vacancy.

MEMBERS

12. Qualifications of Members—The qualifications for membership in the Legislature are age, citizenship, and residence. A senator must be at least twenty-five

years old, and a representative at least twenty-one. No person can be a member of either house who is not a citizen of the United States; who has not been for five years a resident of the State, and who has not been for at least two years next preceding his election a resident of the district in which he is chosen.

13. Disqualifications—There are some things which disqualify persons for membership in the Legislature, even if the above qualifications are possessed. These things are the holding of certain public office under the State or the United States (Art. IV., § 3); infamous crime (Art. IV., § 4); or the non-settlement of accounts with the State on the part of a holder of public money (Art. IV., § 4).

14. Oath—No person is entitled to sit as a member of either house until he has taken an oath binding him to support the Constitution of the United States and the Constitution of this State, and declaring that he has given no bribe in connection with his election, and that he has received and will receive no bribe in connection with his official duties. False swearing in this case, or violation of the oath, is punished by deprivation of membership in the Legislature, and disqualification thereafter to hold any office in the State (Art. IV., § 5).

15. Privileges of Members—Members of the Legislature are entitled to freedom from arrest, to freedom of speech, and to compensation for their services.

While going to a meeting of the General Assembly, while attending the same, or while returning home, members may not be arrested, unless for treason, felony, or breach of the peace (Art. IV., § 14).

Treason may be against the United States or against

the State. In either case it consists in taking part in actual warfare against the United States (or the State), or in giving aid to the enemies of the same.

A *felony* is about the same as an infamous crime, *i.e.*, one punishable by death or imprisonment in the penitentiary.

Breach of the peace means disorderly conduct, like an assault, or riot.

The reason for exempting members from arrest on other grounds is to insure their attendance at sessions of the Legislature, and especially to prevent any one's being kept away by arrest on fictitious charges, in order that his vote may not be cast for or against a particular measure.

Freedom of speech is secured by the provision that for any speech or debate in either house members "shall not be questioned in any other place" (Ill. Const., Art. IV., § 14). This means that legal proceedings for libel shall not be brought against a member for anything said on the floor of the Legislature. It is by no means intended that members may not be criticised for their speeches and votes. In fact, they are criticised very freely, both in private conversation and in the newspapers.

16. Salary—Members of each house are paid a salary of \$1,000 for each regular session, and five dollars a day for each special session; "mileage," at the rate of ten cents for each mile necessarily travelled in going to and returning from a session; and fifty dollars at each session for stationery and incidentals (Ill. Const., Art. IV., § 21).* This compensation may be changed

* Rev. Stat., c. 63, § 15.

by law, but the change cannot take effect until the expiration of the General Assembly which makes it. The reason for this limitation is obvious.

17. Disabilities of Members—Members of each house are prohibited from receiving any civil appointment from the governor or Legislature during the term for which said members are elected, and from being interested in any contract authorized by law during said term and for one year thereafter.

POWERS OF THE HOUSES

18. The houses taken separately have certain powers.

19. Decide Election Disputes—Each house is the sole judge of all contests relating to the election of members and to their qualifications.

If it is claimed that there has been fraud at an election, or error in reporting the results, so that a person is officially reported as elected who in fact was not elected, the person who claims to be unjustly deprived of membership enters a formal notice of contest. The matter is referred to a committee, which hears the evidence on both sides and reports to the house its opinion and a recommendation. The house then votes to assign the seat to one or the other contestant, as the case may be. From this decision of the house there is no appeal.

In like manner each house decides whether any person who is elected has the constitutional qualifications for membership.

This power of the houses to sit in judgment without appeal in all cases relating to the validity of membership is found also in the Congress of the United States,

and was copied originally from the custom of the British House of Commons. That body, however, has changed its methods in this respect. Experience showed that the decision of the house in cases of contested elections was usually determined by political reasons rather than by the merits of the case. Since 1868, therefore, the power to decide contests over election to the House of Commons has been vested in the courts of law. It has proved to be a much better way of securing justice.

20. Expulsion—Each house has the power to expel any one of its own members. Expulsion, however, requires a vote of two-thirds of all the members of the house.

21. Organization—Each house has the power to effect its own organization, by electing such officers as may be authorized by law. The only exception to this is the fact that the Constitution makes the lieutenant-governor the presiding officer of the Senate. He is not a senator, and has no vote except in case of a tie. The presiding officer of the House of Representatives is called the *speaker*. He is elected by the house from their own number, and has a vote like any other member. He has no casting vote in case of a tie.

When a new General Assembly meets for the first time the secretary of state (p. 86) calls the House of Representatives to order, and presides until a presiding officer is elected by the house. On this occasion the order of proceedings is usually as follows:

The members are gathered in the hall of the house. The secretary of state takes the chair and calls the house to order. Prayer is offered, and the roll is

called from an official list prepared by the State canvassing officers (p. 111). The house then elects a temporary speaker, and the secretary of state retires. Other temporary officers are elected, and the members take the oath prescribed by the Constitution. Permanent officers are then elected, and the house adjourns, often for several days, until the speaker shall have had time to appoint the committees.

22. Officers—The officers of the house authorized by law are the speaker, who presides; the chief clerk, who keeps a record of the proceedings; three assistants for the clerk; the doorkeeper and three assistants, who keep order among the visitors in the galleries and lobbies, see that no unauthorized persons enter, and otherwise aid the house; the postmaster and one assistant, who attend to the mail for members; the engrossing clerk and two assistants, who write out ("engross" on parchment) proposed laws when so directed by the house. There are sometimes other officers.

Employees (Ill. Const., Art. V., § 24), usually appointed by the speaker, are clerks for committees, policemen, pages (boys who carry messages in the house), and the like.

23. Committees—Committees, nearly fifty in number, are appointed by the speaker. Each committee consists of several members, usually an odd number, and has charge of certain kinds of business. Every proposed law (*bill*, it is called) when offered to the house by some member, is at once referred to its appropriate committee—tax bills to the Committee on Finance, for instance. If the committee reports the bill, it is then considered by the house in what is known as

“Committee of the Whole.” This is the entire house, with some member in the chair in place of the speaker. Here it is generally discussed. When a vote is taken by the Committee of the Whole, the committee rises, the speaker resumes the chair, and the house, having heard the report of the Committee of the Whole, then debates and takes a final vote on the measure.

Most bills introduced never leave the committee room. Bills reported by standing committees are often passed without material change. It is obvious, therefore, that committees have much power, and that the speaker by his selection of committees can have great influence over legislation.

24. Organization of Senate—The organization of the Senate is quite similar to that of the house. Being a continuous body, however, there is always a chairman and a set of officers and employees, so that little time is wasted in preliminary organization. Of course these officers and employees are changed from time to time. The recording officer of the Senate is called the secretary, and there is a sergeant-at-arms instead of a doorkeeper. It is customary for the Senate to elect a president *pro tempore*, to take the chair in case the lieutenant-governor is absent.

25. Rules—Each house has the power of making its own rules of order. These rules are based on ordinary parliamentary law, adapted to the circumstances and needs of the Legislature.

26. Impeachment—The House of Representatives has the sole power of impeachment, and the Senate has the sole power of trying all impeachments (Ill. Const., Art. IV., § 24).

Impeachment is a formal accusation brought against

a public officer, charging him with some misdemeanor in office. The governor and all civil officers of the State (*i.e.*, all except military officers) are liable to this proceeding (Ill. Const., Art. V., § 15). But another method is provided for taking action against judicial officers who misbehave (p. 70) (Art. VI., § 30).

A majority of all the representatives is required for a vote of impeachment. If such a vote is had, the house then appoints a committee to conduct the case before the Senate (Art. VI., § 24). The latter body acts as a court for the trial of the case, the senators taking a special oath for the occasion. If the governor is on trial, the chief justice presides, as of course the lieutenant-governor is an interested party (p. 82). For conviction a vote of two-thirds of all the senators is required. No further penalty may be inflicted than removal from office and disqualification to hold office thereafter under the State. However, such convicted officer is still liable to be tried and punished by a court of law. Thus, the governor might commit murder. The Senate, on impeachment proceedings, might convict him and remove him from office. Then, as a private citizen, he might be arrested, tried, and punished for the crime, under the laws of the State.

27. Appointments—The Senate also acts as an advisory council to the governor for making certain appointments—such as the Constitution or laws of the State prescribe to be made by the governor “with the advice and consent of the Senate” (Ill. Const., Art. IV., § 10).

THE LEGISLATURE AS A WHOLE

28. Regular Sessions—The Constitution requires a biennial session of the General Assembly, the session to begin at noon on the Wednesday next after the first Monday of the year following the general election. The regular sessions of the Legislature, then, fall in the odd-numbered years (Art. IV., § 9).

29. Quorum—A quorum of either house is a majority of all the members elected (Art. IV., § 9).

By a quorum is meant the least number which may be present in order that business may be done. The Congress of the United States and the legislatures of all the States have the same quorum as that in Illinois.

30. Special Sessions—A special session of the General Assembly may be convened by the governor at any time which he may think proper, for the consideration of such business as he may consider necessary. No other business may be considered at a special session (Art. V., § 8).

31. Adjournment—When the General Assembly has finished its business, whether at a regular or special session, adjournment is effected at a date agreed upon by the two houses. Neither house can adjourn for more than two days without the consent of the other (Art. IV., § 10). If the houses fail to agree as to the time of adjournment, the governor may adjourn the General Assembly to such time as he may think proper, but not to a later date than the beginning of the next regular session (Art. V., § 9). Adjournment by the governor is called *prorogation*. The sessions of the British Parliament and of European legislatures in general are regularly ended by prorogation. Amer-

ican executives (both of the United States and of the States); however, have the power to prorogue only under the same circumstances as in Illinois.

32. Seat of Government—The Constitution does not fix the seat of government. An act of the General Assembly passed in 1874 prescribed that Springfield should continue to be the capital.* In case of pestilence or public danger, however, the governor may designate some other place as the seat of government. Of course the General Assembly, if it saw fit, might repeal the act of 1874 and make some other place than Springfield the capital of the State.

POWERS AND DUTIES OF THE LEGISLATURE

33. The Legislature Represents the People—The General Assembly represents the people of the State. Whatever is done by the General Assembly is supposed to express the will of the people. This is indicated by the opening words of every law made by the Legislature: "Be it enacted by the people of the State of Illinois, represented in the General Assembly" (Art. IV., § 11).

When the original States broke away from the British government, as they no longer had the crown or its agent, the royal governor, over them, they felt sure that their liberties were safe. They would thereafter govern themselves by their own freely chosen representatives, and there would be no more trouble. So it was that the early State constitutions gave large

* Rev. Stat., c. 123, § 1.

powers to the legislatures, with few restrictions. But as years passed on, the States gradually learned that their own representatives could not always be trusted. Unscrupulous men managed to secure legislation which was not for the public good, but for private advantage. In order as far as possible to prevent such misuse of powers entrusted to the law-making body, later constitutions have contained an increasing number of checks and prohibitions on legislation. Many such are found in the Illinois Constitution of 1870.

34. General Principle of Legislative Power—The general principle of power given to a State legislature is, that any law may be enacted which is not forbidden by the Constitution of the United States or by the Constitution of the State. Still, the State Constitution enumerates some specific powers of the Legislature. It also prescribes for that body certain duties.

35. Specified Powers of the General Assembly—Specified powers of the Legislature often are given by way of exception to certain duties or prohibitions. Examples of powers thus specifically granted are: the creation of courts for cities and towns (Art. VI., § 1), changing the boundaries of judicial districts of the Supreme Court (Art. VI., § 5), the creation of appellate courts and the regulation of appeals (Art. VI., § 11), provision for dividing the State into judicial circuits and for constituting circuit courts therein (Art. VI., § 15), uniting two or more counties for a single county court (Art. VI., § 18), providing for appeals from county courts (Art. VI., § 19), the establishment of probate courts in counties with a population over 50,000 (Art. VI., § 20), prescribing districts for justices of the peace,

police magistrates, and constables (Art. VI., § 21), removing from office any judge, by a vote of three-fourths of the members of each house (Art. VI., § 30), exemption from taxation of public property and of private property used for certain public purposes (Art. IX., § 3), vesting certain powers of taxation in municipal corporations (Art. IX., § 9), providing for certain roadways (Art. IV., § 30), and for dikes and drains (Art. IV., § 31). It does not seem necessary in all cases to specify these powers, but they are enumerated doubtless so that there can be no possible question about them.

36. Specified Duties of the General Assembly—Certain *duties* of the General Assembly are specifically prescribed.

It is the duty of the General Assembly to make by law proper appropriations of money from the State treasury for the expenses of the State government (Art. IV., § 18); to provide the letting of contracts for supplies and printing for the State (Art. IV., § 25), and for the protection of miners (Art. IV., § 59); to pass liberal homestead and exemption laws, *i.e.*, laws exempting one's home and other property, to a reasonable amount, from seizure for the non-payment of debts (Art. IV., § 32); to prescribe the times of holding of county courts (Art. VI., § 14); to provide "a thorough and efficient system of free schools" (Art. VIII., § 1); to give the option to counties of being organized by townships (Art. X., § 5); to regulate the fees of public officers (Art. X., § 12); to provide for minority representation in voting by stockholders of corporations (Art. XI., § 3); to regulate railroad charges (Art. XI., § 15); to protect people from fraud and extortion in dealing with public warehouses (Art. XII., § 6), and

in grain (Art. XIII., § 7); to make laws forbidding the sale of lottery tickets in the State (Art. IV., § 27).

THE METHOD OF LEGISLATION

37. In order that the Legislature may exercise its powers properly, the Constitution fixes quite definitely the manner in which laws shall be made (Const., Art. IV., §§ 11–13). This corresponds to that which is usual in all the States, and is fully explained in Part I. (pp. 41–46). One or two special provisions in Illinois may be noted.

38. Revenue Bills—The Constitution of the United States* and those of several of the States require that bills for raising revenue shall originate only in the lower house. This is in imitation of a custom of the British Parliament, for which at one time there was an excellent reason. No such reason exists in our country, however, and the Illinois Constitution very properly provides that any bill may originate in either house, but may be altered, amended, or rejected by the other (Const., Art. IV., § 12).

39. The Popular Veto—The Referendum—Not all resolutions of the Legislature have to go to the governor.

As has been seen (p. 53), a plan for a new Constitution is drawn up by a body of representatives of the people—a Constitutional Convention. This is, unlike the Legislature, a unicameral body, and the plan which it may draft is not submitted to the governor for his approval, but to a vote of the people. If a majority of all those voting approve the plan, it is

* U. S. Const., Art. I., § 7.

adopted and becomes law. Otherwise it is rejected. This amounts to a veto by the people—an *absolute* veto, as there is no way of passing it if the people disapprove. The governor's veto is not absolute, as a two-thirds vote in each house may make a bill become a law, notwithstanding the disapproval of the governor.

A resolution of the General Assembly in favor of a constitutional amendment also does not go to the governor, but, like the plan proposed by a constitutional convention, goes to the people instead. If a majority of those voting approve, the proposed amendment is adopted and becomes law.

The Constitution also provides that in some cases even measures which have passed both houses of the Legislature and received the approval of the governor do not become law unless they receive also the direct assent of the people.

No indebtedness can be incurred by the State beyond the sum of \$250,000, "except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war," without the express approval of the people (Art. IV., § 18).

The total expenditure on the State-house building and grounds cannot exceed \$3,500,000, unless the people approve (Art. IV., § 33).

No law authorizing banks can go into effect until the people have approved (Art. XI., § 5).

The above three requirements, together with those relating to amending the Constitution, require a vote of the people throughout the State.

There are other restrictions on the legislative power of the General Assembly which relate only to particular

counties. No division of a county can be made, and no addition to the territory of a county or subtraction from it, without the assent of the people concerned (Art. X., §§ 2, 3).

No county seat can be changed without the assent of the voters of the county—in this case a three-fifths affirmative vote being required (Art. X., § 4).

There is also a like limitation in the taxing power of county authorities (Art. X., § 8—see also p. 153).

The above are requirements of the Constitution. In enacting laws in accordance with its powers the General Assembly has also in some cases made use of the same principle. In 1895 a law (p. 148-9) was passed applying the merit system to the government of cities, but providing that it should not apply to any city without the consent of the voters.*

The reference to the people of a proposed law gives the people an absolute veto on the measure. This is also called sometimes "direct legislation," sometimes the "referendum."

In Illinois no law takes effect until July 1 next following its passage, unless the General Assembly by a vote of two-thirds of all the members of each house declare that an emergency exists—in which case the law may take effect at once.

The veto of the governor of Illinois is fatal to a bill unless it is passed in spite of his objections by a vote of two-thirds of all the members of each house.

* Rev. Stat. c. 24, § 483-4.

CHAPTER VI

THE STATE GOVERNMENT—THE EXECUTIVE STRUCTURE

1. The Executive Department of the government carries on the State business—the administration. This might more accurately be called the executive departments, as in fact it consists of a number of officers who are not very closely related to one another, and who are not under a common control. In this respect Illinois is quite unlike the United States. The difference is plainly seen by quoting from the two Constitutions.

The Constitution of the United States (Art. II., § 1) reads: "The executive power shall be vested in a President of the United States of America."

The Constitution of Illinois (Art. V., § 1) reads: "The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, and attorney-general."

From these statements, and from the subsequent distribution of powers, it will appear that the President directs and controls the Federal administration, while the Illinois governor has little or no control over the remaining executive officers. These officers are not

responsible to the governor, because he does not appoint them and he cannot remove them. He can only ask information from them.

THE GOVERNOR

STRUCTURE OF THE OFFICE

2. The Governor is elected by the people at each alternate biennial general election (p. 58). His term of office is four years, beginning on the second Monday of the January following the election.

3. Election and Term of Office—The election of governor, it will be seen, comes in the same year as the choice of Presidential electors (the year whose number is divisible by four), and the governor's term of office very nearly coincides with that of the President (Art. V., §§ 1, 3).

While the governor's term of office is four years, nevertheless it does not expire "until his successor is elected and qualified." Thus, in case of any failure to elect a new governor, or of any delay in the assumption of office, the former governor continues to hold the chair. On the other hand, as soon as the President's term has expired, he becomes at once a private citizen. There might, then, be circumstances in which there would be no President of the United States. But it is likely that there will be, under almost any circumstances, a governor of Illinois.

If, at the election, there should be two candidates for governor with an equal vote, and that higher than any other, then the General Assembly, by joint ballot, chooses one of the two (Art. V., § 4). Any contest as

to the election is also decided in like manner by the General Assembly.

4. Qualifications—To be elected governor one must have three qualifications: age, citizenship, and residence. The age must be at least thirty; for the five years next preceding the election the candidate must have been a citizen of the United States (Art. V., § 5), and for the year next preceding the election he must have been a resident of the State (Art. VII., § 6).

5. Disqualifications—The governor cannot hold any other State office during the term for which he is elected, and he must reside at the seat of government (Art. V., §§ 5, 1).

6. Privileges—The governor is entitled to a salary, which must be fixed by law, and cannot be increased or diminished during his official term (Art. V., § 23). The law at present fixes the salary at \$6,000. The same law gives the governor the use of the executive mansion at Springfield as a residence.*

ADMINISTRATIVE POWERS

7. Supreme Executive Power—The powers of governor, while not so great as those of the President of the United States, are still considerable. The governor has the “supreme executive power” (Art. V., § 6), which merely means that in point of rank and dignity he represents the State, and that, so far as the Constitution and laws warrant, he supervises and manages the State affairs.

8. Appointments to Civil Offices—The power to

* Rev. Stat., c. 53, § 1.

appoint, by and with the advice and consent of the Senate, some officers of the State civil service belongs to the governor—officers whose appointment or election is not otherwise provided for (Art. V., § 10). These officers are: the boards which manage the various State institutions (excepting the State University), justices of the peace in the city of Chicago (Art. VI., § 28), and a few other State officers. Their functions will be explained later (p. 84).

9. Appointments to Military Offices—The Constitution makes the governor commander-in-chief of the military and naval forces of the State (Art. V., § 14), and requires that all militia officers shall receive their commissions from him (Art. XII., § 3). The statutes give him the power to appoint the officers of his own staff, general officers, and, on recommendation of the latter, their staffs also.*

10. Appointment to Fill Vacancy—In case of vacancy in any office not elective, it is the governor's duty, if the Senate is not in session, to make a temporary appointment until the next meeting of the Senate. He then nominates some person to fill the office, and, by and with the advice and consent of the Senate, makes the appointment to fill such vacancy for the remainder of the term in question (Art. V., § 11).

Judicial officers are elective, and so as a rule a vacancy in such office is filled by a special election. However, in case of a vacancy in the office of a judge, if the unexpired term does not exceed one year, the vacancy is filled by the governor's appointment (Art. VI., § 32).

* Rev. Stat., c. 129, §§ 4, 5.

11. Removal from Office—The governor has the power to remove from office “any officer whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office” (Art. V., § 12). Of course this power does not extend to any officers who derive their authority from any other source than the governor’s appointment.

12. Military Control—The governor is commander-in-chief of the military and naval forces of the State, and may call them out to maintain public order or to protect the State from invasion. The State National Guard and Naval Militia are thus bound to obey the governor’s orders (Art. V., § 14).

13. Information—The governor may at any time require information, in writing, from any officer of the Executive Department or of State institutions, as to matters falling under their charge (Art. V., § 21).

LEGISLATIVE POWERS

14. While the governor is supposed to be at the head of the executive, or administrative, branch of the State government, yet he has some powers which are related to legislation. This is one of the exceptions to the separation of powers to which reference is made in Article III. of the Constitution.

15. Meeting and Adjournment of the Legislature—The governor may convene the Legislature in special session (p. 67), and, in case of disagreement between the two houses as to the time of adjournment, he may adjourn them to a date which he may fix (p. 67) (Art. V., §§ 8, 9).

16. Suggestion of Legislation—He may suggest to

the General Assembly such legislation as he thinks expedient (Art. V., § 7). Of course the Legislature is not bound to act in accordance with his suggestions.

17. Approval or Negative of Bills—Veto—All bills passed by the General Assembly must, before they become laws, be presented to the governor for his approval (p. 73) (Art. V., § 16). Thus he has a voice in legislation, and while his veto is not absolute, yet it is often quite difficult to secure a two-thirds vote of each house for the enactment of a bill which he disapproves.

JUDICIAL POWERS

18. The governor has some powers which relate to the structure or proceedings of the judiciary.

19. Appointment—As has been seen, the governor appoints a judge to fill a vacancy in such office, if the unexpired term is not over one year (p. 77) (Art. VI., § 32), and he appoints the justices of the peace of Cook County, by and with the advice and consent of the Senate (p. 134) (Art. VI., § 28).

20. Pardons—The governor has the power “to grant reprieves, commutations, and pardons, after conviction, for all offences” (Art. V., § 13).

A reprieve is a postponement of the time for the execution of a penalty inflicted by a court upon an offender.

A commutation is a lessening of such a penalty.

A pardon frees an offender from all the legal consequences of a crime.

It is thought proper that somewhere in the government there should be lodged the power of granting mercy to offenders, as at times there are reasons which

make advisable such exceptions to the ordinary operation of justice. This power is usually vested in the executive. It is a heavy burden for the governor, as urgent appeals are made to him in many cases, and it is hard to resist petitions for clemency. In order to relieve the governor from this pressure the Pennsylvania Constitution establishes a board of pardons, consisting of four State officers, and gives the governor the pardoning power only in cases recommended by that board. In Illinois such a board is constituted by law, but it is merely an advisory body (p. 113).

The governor of Illinois can exercise this power only after a court of law has duly found a person guilty of an offence against the laws,—“after conviction.” There is no such limitation on the pardoning power of the President of the United States, and accordingly he can grant immunity from the legal consequences of crime at any time, even before arrest or trial.*

DUTIES

21. The main duty of the governor is to “take care that the laws be faithfully executed” (Art. V., § 6). This duty he may perform in various ways.

22. Execution of the Laws—In the first place, he is to perform such duties as the laws enacted by the Legislature prescribe.

If he has reason to believe that officers whom he has appointed are derelict in their duty, he can remove them and appoint others in their place (p. 78).

In case of other officers of the State, as well as local

* Const. of the United States, Art. II., § 2.

officers of all kinds, the governor has practically little or no control, and hence no means of seeing that they do their duty in executing the laws.

If the laws of the State are resisted by private individuals, it is the duty of mayors and police authorities in cities, and of the sheriffs of counties, to overcome such resistance. If they are unable to do so, they are then to notify the governor, and it becomes his duty to call out the State military to aid in enforcing the law.*

23. Appointments—It is the duty of the governor to make the appointments to office heretofore mentioned (p. 76-7).

24. Information to the General Assembly—It is his duty to give the Legislature information as to the condition of the State (Art. V., § 7). This he does at the beginning of each legislative session, and at the end of his term of office. At the same time he accounts for all money in the State which may be in his charge, and furnishes estimates of the amount to be raised by taxation. He bases his estimates on the reports which the State executive officers make to him (Art. V., § 21). The communication which the governor makes to the General Assembly is called his *message*.

25. Oath—The governor, like all other civil officers of the State, must, before he enters on the duties of his office, take an oath to support the Constitution of the United States and the Constitution of the State, and that he will faithfully perform his duties to the best of his ability (Art. V., § 25).

* Rev. Stat., c. 38, § 256l-256n.

26. First Governor—The first governor, elected in 1818, was Shadrach Bond.

VACANCY IN THE OFFICE OF GOVERNOR

27. Vacancy in other executive offices, as has been explained (p. 77), is filled either by a special election or by appointment by the governor. But if the governor himself should die, or in any other way the office should become vacant, it is important that the place should be filled immediately. For this purpose the Constitution makes two special provisions.

28. The Lieutenant-Governor—The first is the creation of an officer, the lieutenant-governor, for the sole purpose of being ready to fill the office of governor in case of a vacancy (Art. V., §§ 1, 3, 5).

29. Election, Tenure, Qualifications—The lieutenant-governor is elected by the people at the same time and for the same term as the governor, and he must have the same qualifications as the governor, and has the same disqualification for holding other office (Art. V., §§ 1, 3, 5).

30. Oath and Salary—The lieutenant-governor takes the same oath as the governor. His salary is fixed by statute at \$1,000. If he succeeds to the duties of governor, he has the emoluments of that office.

31. Duties—In order to give him something to do, the lieutenant-governor is made presiding officer of the Senate, but he is not a member of that body and has no vote except in case of a tie (Art. V., § 18).

32. Filling Vacancy—If the governor fails to take the oath of office, dies, resigns, is convicted on impeachment and so removed from office, is absent from the

State, or in any other way incapable of performing his duties (*e.g.*, if he should become insane), the lieutenant-governor succeeds to the office for the residue of the term if the disability be total, for the duration of the disability if that be temporary (Art. V., § 17).

33. First Lieutenant-Governor—The first lieutenant-governor of the State was Pierre Menard, elected in 1818.

34. President of Senate and Speaker of House—The second provision of the Constitution is for the case in which there is no lieutenant-governor, as well as no governor. Then the president *pro tempore* of the Senate (p. 65) fills the vacancy as governor. If in the same way he should leave the office vacant, the speaker of the House of Representatives succeeds (Art. V., § 19).

CHAPTER VII

THE EXECUTIVE (*Concluded*)

ADMINISTRATIVE DEPARTMENTS

1. Heads of State Departments—Besides the governor and the lieutenant-governor, the Constitution names five other officers in the executive department (Art. V., § 1). Each of these is really the head of a separate department of the administration—such as in the Federal government are called cabinet departments. They are the secretary of state, the auditor of public accounts, the treasurer, the superintendent of public instruction, and the attorney-general.

2. Election and Term of Office—They are all elected by the people at one of the general elections, and all but the treasurer for the term of four years. The treasurer's term is two years. The secretary of state, auditor, and attorney-general are elected at the same time as the governor, and begin their term of office at the same time with that officer (p. 75) (Art. V., §§ 1, 2, and 3). A treasurer is elected at each general election, in November of the even-numbered years. It is thought better that his term should be short, so that the books can be inspected anew quite frequently.

3. Qualifications—Citizenship and residence are required as qualifications for these offices—the general

requirements for all civil or military office in the State. The candidate must be a citizen of the United States and must have been a resident of the State during the year next preceding the election (Art. VII., § 6).

4. Oath—The heads of departments must take the same oath of office as the governor (p. 81) (Art. V., § 25).

5. Disqualifications—All except the treasurer are ineligible to any other office during the period for which they have been elected (Art. V., § 5).

The treasurer is ineligible to the treasurership for two years after the end of the term for which he has been elected (Art. V., § 2).

None of the five above named officers may reside elsewhere than at the seat of government during the term for which they have been elected.

6. Privileges and Duties—The salaries of the officers of the executive department are not fixed by the Constitution, but are determined by statute.* They are in each case, \$3,500.

The salary may not be increased nor diminished during the official term of the officer in question (Art. V., § 23).

7. Duties, Constitutional—The Constitution prescribes certain duties for the heads of executive departments, and gives the Legislature power to prescribe other duties (Art. V., § 1).

Heads of departments are to keep the public records, books, and papers at the seat of government (Art. V., § 1).

The treasurer must, if required by the governor, give

* Rev. Stat., c. 53, § 1.

reasonable additional security for the honest performance of his duties (Art. V., § 2).

Careful accounts must be kept of all money received or paid out (Art. V., § 20).

All the heads of executive departments must, at least ten days before the beginning of each regular session of the Legislature, make to the governor a report of the business of the office. A special report must also at any time be submitted when required by the governor (Art. V., § 21).

8. Duties, Statutory—The statutes fix the duties of the respective officers quite definitely.

The *secretary of state* keeps the official records. These are all laws enacted by the Legislature with or without the approval of the governor, all the proceedings of the General Assembly, the official acts of the governor, the record of all incorporations, and similar matters. There are also other less important duties.*

The *auditor of public accounts* keeps an account with all persons or corporations having financial dealings with the State, examines all claims on the State for money, grants warrants on the State treasury for such claims as he finds to be proper, and attends to some other duties.†

The *State treasurer* takes charge of the money belonging to the State, and pays it out on warrants drawn by the auditor.‡

The *State superintendent of public instruction* keeps a general oversight of the common schools of the State. He gives advice to county superintendents and teachers,

* Rev. Stat., c. 124, §§ 3-5.

† Rev. Stat., c. 15, §§ 7, 8, 22

‡ Rev. Stat., c. 130, §§ 7, 10.

interprets the meaning of the school laws, grants State certificates to teachers who are qualified, records and reports educational statistics, acts as a member of certain educational governing bodies, and performs some other duties. *

The *State attorney-general* is the principal legal adviser of the State government. He conducts certain lawsuits for the State (especially in the Supreme Court), advises State officers on legal questions, and does such other duties as may be imposed upon him by law. †

9. Vacancy—In case of a vacancy in any of these State executive offices, the governor appoints for the residue of the term (Art. V., § 20). ‡

PURPOSES OF GOVERNMENT AND LAW

10. The Main Purposes of Government, as laid down in the preamble to the Illinois Constitution, are to insure justice, domestic tranquillity, the public defence, the general welfare, and liberty. All these would be in danger without government. Men in their dealings with one another are in many cases apt to be dishonest and unjust. Thieves and robbers are ready to appropriate property which is not their own. Assaults, riots, even murder, are always possible in a mixed and crowded society. Property is in danger from fire and flood, as well as from thieves, and the public health may often be endangered by careless or ignorant people.

* Rev. Stat., c. 122, § 4.

† Rev. Stat., c. 14, § 4.

‡ Rev. Stat., c. 46, § 128.

To prevent these and many other dangers to the persons and property of the people, government is created in all its branches. To secure the purposes of the preamble, the Legislature makes laws, the executive puts them in force, the courts decide their application to specific cases.

In order to administer the various laws which have been enacted from time to time for the purposes above mentioned, the Legislature has been obliged to provide officers in addition to those created by the Constitution, and to specify their powers and duties. In many cases these officers are a small body called a "board." In other cases they are single individuals.

A board meets from time to time and decides what to do by a majority vote. In the employ of the board are usually single officers who carry out the plans adopted. The advantage of having a board is in the possibility of deliberation—of getting the judgment of more than one man. If there is no particular need of deliberation, but the main thing is merely to put into execution certain policies already determined, then a board is not necessary.

PUBLIC DEFENCE

11. The Public Safety may be in danger from invasion by a foreign enemy or from insurrection at home. To guard against these dangers the Constitution and statutes provide for the organization of a State military and naval force (Art. XII).* This is put under the immediate authority of the governor as com-

* Rev. Stat., c. 129.

mander-in-chief (Art. V., § 14). There is no State executive department corresponding to the Federal department of war. The State militia, or a part of them, may be called into the service of the United States. In that case the command is transferred from the governor to the President.

All able-bodied male citizens between the ages of eighteen and forty-five, with some exceptions, are liable to military duty (Art. XII., § 1), and in an emergency all may be called on.* Usually, however, the ranks of the militia are filled by volunteers.

12. The National Guard—The law provides that a certain number of troops shall be enrolled and organized so as always to be ready for duty. This body is called the "Illinois National Guard." †

13. The Governor's Staff—The general management of the Guard is carried on under the governor's direction by several officers who form the governor's staff. They are appointed by the governor and hold office during his pleasure. The principal officer of the governor's staff is the adjutant-general, who has charge of most of the general administration of the Guard.

14. Organization of the Guard—The Guard is organized in companies, battalions, regiments, and brigades, each with its proper officers. A full company of infantry has 103 officers and men. A full battalion has four companies; a full regiment has three battalions; a brigade has several regiments, usually three or four. A company is commanded by a captain, aided by two lieutenants, five sergeants, and four

* Rev. Stat., c. 129, § 1.

† Rev. Stat., c. 129.

corporals. A battalion is commanded by a major, a regiment by a colonel (with a lieutenant-colonel second in command), a brigade by a brigadier-general—each commanding officer being aided by a group of officers called the staff. Sergeants and corporals are non-commissioned officers, being appointed, on recommendation of the captain, by the battalion or regimental commander. Other officers are commissioned by the governor.

Captains and lieutenants are elected by their companies. They are known as *line officers*. The commanding officers of battalions and regiments, known as *field officers*, are elected by their line officers. Brigadier-generals are appointed by the governor. Staff officers of a battalion, regiment, or brigade holding commissions are appointed by the governor on recommendation of the respective commanding officers. Non-commissioned staff officers are appointed by the respective commanders. All commissioned officers below the rank of brigadier-general must pass an examination in military tactics as a prerequisite to appointment.

Companies of cavalry and artillery are organized very nearly like companies of infantry. A company of cavalry is usually called a *troop*, and a company of artillery a *battery*. The latter may have six pieces of artillery.

The State provides the Guard with uniforms, arms, and equipments, with armories, places for rifle practice, and with camping grounds.

15. Naval Militia—None of the States keeps war vessels, all such being a part of the United States navy. However, several States which border on

navigable water maintain a naval militia, which is useful in aiding to maintain order on occasions of emergency, and at the outbreak of war furnishes a valuable auxiliary to the national navy.

The Illinois naval militia consists of two battalions of four divisions (or companies) each. The commanding officer is known as a *commander*, each battalion is under the command of a *lieutenant-commander*, each division under a *lieutenant* (aided by a *lieutenant, junior grade*, and two *ensigns*). There are also suitable staff officers. The governor appoints the officers and controls the organization.

PUBLIC EDUCATION

16. Ignorance is the parent of a large amount of misery and crime. In a republic in which suffrage is so widely extended as it is in our States, also, unless the people are able to understand what their votes mean, it is evident that voting will be not only useless but dangerous (Art. VIII).*

For these reasons education is provided by the State free of cost.

17. Ordinance of 1787, Article III.—One of the six fundamental articles of compact between the United States and the people of the old Northwestern Territory (p. 14) found in the Ordinance of 1787 is this: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

* Rev. Stat., c. 122.

18. Land Set Aside for Education—The enabling act of Congress for the admission of Illinois to the Union stipulated that in each township the section numbered 16 should be granted to the State for the use of the people in said township in maintaining schools—and further that one entire township, in addition to one already reserved for that purpose under the territorial laws, should be set aside for the purpose of maintaining “a seminary of learning.” *

19. Constitution of Illinois—The present Constitution of the State contains an entire article (VIII.) devoted to education, which requires the General Assembly to “provide a thorough and efficient system of free schools, whereby all children of this State may receive a good common-school education” (§ 1). The Constitution also requires that all funds received by the State for educational purposes be devoted to those purposes and to no other (§ 2), that the money of the State shall not be appropriated to aid sectarian schools (§ 3), that no school officers or teachers shall have any pecuniary interest in books, apparatus, or furniture used by the schools (§ 4), and permits counties to have a school superintendent (§ 5).

20. School Law—The State school law is very elaborate.† It provides for schools in every city, village, and district in the State, supported by the public funds derived from the sale of the school lands and by taxation. These schools will be discussed more in detail under the subject of “Public Education” (p. 155). The laws provide also for a State superintendent of public instruction, for a State Board of Education, for

* Act of April 18, 1818, § 6.

† Rev. Stat., c. 122.

schools in the State charitable institutions, for State normal schools, and for a State university.

21. State Superintendent—The duties of the State superintendent have already been mentioned (p. 86). His term of office is four years, and he is elected in the middle of the governor's term, so as to keep this election as much as possible out of party politics.

State schools are maintained in the charitable institutions for the blind, the deaf and dumb, and the feeble-minded (p. 99).

22. Normal Schools—Normal schools are established for education in the science and art of teaching. It is by no means true that one who is familiar with a subject is able to teach it. It is true that one who has a natural aptitude for teaching is likely to succeed even without special training. But it is far better for any teacher, whatever his natural endowments or his knowledge, to have the advantage of study and instruction in the principles and methods of education. For these purposes the State has by law established and maintains four normal schools.

23. The Illinois State Normal University, at Normal, McLean County, was the first to be organized, the work having begun in 1857. This school was given by act of the Legislature the land grant of two townships to which reference was made by Congress in the enabling act for Illinois (p. 20). Its affairs are managed by the Board of Education of the State of Illinois. The board consists of fifteen members, appointed by the governor, with the approval of the Senate, for the term of six years. The State superintendent is *ex officio* a member of the board, and its secretary.

24. The Southern Illinois State Normal University, at Carbondale, Jackson County, was organized in 1869, and began work in 1874. Its business is managed by a board of trustees, of whom five are appointed by the governor for a term of four years, and a sixth member is the State superintendent of public instruction.

25. The Eastern Illinois State Normal School, at Charleston, Coles County, and the Northern Illinois State Normal School, at DeKalb, were organized by law in 1895, and are to begin instruction in the autumn of 1899. Each is in charge of a board of trustees, five in number, appointed by the governor, by and with the advice and consent of the Senate, for a term of four years.

26. State University—The *University of Illinois*, at Urbana, Champaign County, is the State University—the two State Normal Universities being in fact not universities, but normal schools. An act of Congress passed in 1862 gave a land grant for the establishment of colleges of agriculture and the mechanic arts in the several States. On this foundation the General Assembly in 1863 organized by law the Illinois Industrial University, the original purposes of which were indicated by the name. As the character of the work broadened, the name was changed (1885) to its present form. It now consists of a number of colleges and schools, devoted to general and professional education. The schools of medicine and pharmacy are in Chicago.

The university is controlled by a board of trustees. Nine are elected by the people for a term of six years, three being chosen at each biennial general election. Thus the board is a continuous body (p. 59). The governor, superintendent of public instruction, and the

president of the State Board of Agriculture are severally *ex officio* members of the board.

The boards which control these five State educational institutions have the power to appoint all teachers and officers, to prescribe the plan of organization and study, and to expend the money appropriated for their respective schools by the Legislature.

27. State Libraries and Museums—Besides the libraries and museums connected with the University and other educational institutions, the State maintains three libraries at Springfield.

The State Law Library is connected with the Supreme Court.

The State Library is a general collection of books, kept in the capitol, and controlled by a board consisting of the governor, the secretary of state, and the State superintendent of public instruction.

The State Historical Library is a collection of books, documents, and other material illustrating the history of Illinois. It is managed by a board of three trustees, appointed by the governor, with the approval of the Senate, for two years.

PENAL AND REFORMATORY INSTITUTIONS

28. Crime—A third danger to the peace and good order of society comes from crime. Some crimes are the result of sudden temptation, others come from habit and deliberate purpose. Those who are guilty of these latter crimes are habitual criminals.

The laws of the State forbid certain acts to be done, and prescribe penalties for the commission of such

acts.* Violation of any part of these laws is *crime*. It is the duty of local police officers to arrest criminals, and of the courts to ascertain the guilt or innocence of prisoners by a trial. In case of proven guilt the court then prescribes such penalty as the law directs.

In most cases of serious crime the penalty is imprisonment for a greater or less period. The State, therefore, has to provide prisons in which to keep condemned criminals.

One purpose of imprisonment is punishment. Another is to remove the criminal from society and so to prevent him from further criminal acts. But it is hoped that in as many cases as possible the prisoner's reform may be effected. If the criminal can be taught habits of industry and orderly life he may, when he leaves the prison, become a law-abiding and honest citizen. It is in any event not desirable that any of the prisoners should be kept in idleness. Accordingly many forms of productive industry are carried on in the prisons. Plans are also put in operation by which prisoners are classified, and those who behave well may earn better treatment while in the prison and may shorten their term.

29. The Illinois State Penitentiary at Joliet was established by law in 1857, and opened in 1858. It is controlled by a board of three commissioners, appointed by the governor with the approval of the Senate. The term is six years, and one is appointed every second year. The warden, who has immediate charge of the prison, and other officials are appointed by the board.†

30. Southern Illinois Penitentiary—There is a

* Rev. Stat., c. 38.

† Rev. Stat., c. 108, §§ 3-5.

second prison at Chester, established in 1877, to which criminals are sent from the southern part of the State. This is the Southern Illinois Penitentiary. Its management is in the hands of a board of three commissioners, in all essential respects like the board of the Joliet prison.*

31. The Parole System—One arrangement for the reformation of prisoners involves the *indeterminate sentence* and the *parole system*.†

For all felonies except treason and murder a maximum period and minimum period of imprisonment are fixed in the law. A judge in sentencing a convicted criminal does not decide the time limit. If the convict proves himself worthy of the privilege, he may be allowed to leave the prison on *parole*. As long as he behaves himself he will not be molested, and if he continues to be industrious and upright he may, on recommendation of the prison authorities, be finally discharged from the remainder of his penalty, providing the governor approves. A prisoner who is guilty of violating the conditions of his parole may be arrested and compelled to serve the remainder of his maximum term.

32. Illinois Asylum for the Criminal Insane—Insane criminals are kept in the Illinois Asylum for the Criminal Insane, also at Chester, and controlled by the board of commissioners of the Southern Penitentiary. This was established in 1892. Such unfortunate creatures evidently must be separated from ordinary criminals and kept under suitable care.

* Rev. Stat., c. 108, §§ 66-69.

† Rev. Stat., c. 38, §§ 498-506.

33. Illinois State Reformatory—It is evident that there is more encouragement in the hope of reforming quite young criminals than can be the case with those of mature age. On the other hand, to confine mere boys among hardened offenders can have no result but to confirm criminal inclinations which otherwise might be eradicated. With these facts in view, the Legislature established in 1867 a reform school, now known as the Illinois State Reformatory. It is situated at Pontiac, Livingston County. It is controlled by a board of managers, five in number. They are appointed by the governor for a term of ten years each, one being appointed every second year. No more than three may be of one political party. Boys between the ages of ten and twenty-one are sentenced to the reformatory rather than to one of the penitentiaries. In each case the sentence is not for a definite term, and the board of managers may release any prisoner who gives evidence of reformation. The release may be on probation, or it may be final. While in the reformatory the boys are taught useful branches of knowledge in a carefully planned school.*

34. State Home for Juvenile Female Offenders—Girls between the ages of ten and sixteen who are offenders against the laws, or who for reasons satisfactory to a court should be taken in charge by the State, are sent to the State Home for Juvenile Female Offenders, at Geneva, Kane County. This is controlled by a board of trustees, five in number, two of whom may be women. They are appointed by the governor for a term of three years each, one being appointed each

* Rev. Stat. c. 118.

year. Inmates of the home are taught suitable industries. It is attempted to make the girls capable of earning a respectable living when they are sent away.*

INSTITUTIONS FOR THE ALLEVIATION OF MISFORTUNE

35. Public Charities—There are some kinds of misfortune for which the State can on the whole take better care than any private charity. For this reason it is a common thing throughout the Union for the States to establish and maintain asylums for the blind, for the deaf and dumb, for the insane, and for the feeble-minded. Besides these, there are homes for old soldiers, who have risked their lives for their country and are no longer able to care for themselves.

General supervision over such work in Illinois belongs to the Board of State Commissioners of Public Charities. This body consists of five persons, appointed by the governor with the approval of the Senate. The term of office is five years, and one is appointed annually. The board inspects the various State charitable institutions and makes an annual report to the governor.

Illinois maintains at present fourteen charitable institutions. There are six for the insane, two for the blind, one for the deaf and dumb, one for feeble-minded children, one eye and ear infirmary, a home for soldiers and sailors, a home for the widows and one for the orphans of soldiers.

The Northern Hospital for the Insane is at Elgin;

* Rev. Stat., c. 118, § 26.

the Southern Hospital for the Insane is at Anna ; the Eastern Hospital for the Insane is at Kankakee ; the Western Hospital for the Insane is at Watertown ; the Central Hospital for the Insane is at Jacksonville ; the Asylum for the Incurable Insane is at Bartonville (near Peoria) ; the Illinois Institution for the Blind is at Jacksonville, and there is an Industrial Home for the Blind in Chicago ; the Illinois Institution for the Education of the Deaf and Dumb is at Jacksonville ; the Asylum for Feeble-minded Children is at Lincoln ; the Illinois Charitable Eye and Ear Infirmary is in Chicago ; the Soldiers' and Sailors' Home is at Quincy ; the Soldiers' Widows' Home is at Wilmington ; the Soldiers' Orphans' Home is at Normal.

Each of these institutions is controlled by a board of trustees, usually of three members, appointed by the governor, with the approval of the Senate, for a term of six years, one being appointed every two years.

PERSONAL SAFETY

36. The Safety of people in life, limb, and health must largely depend on their own intelligence and vigilance. However, one part of the business of government is to protect the community from dangers which cannot easily be guarded against by individuals themselves. The most of this is done by local authorities. The general government of the State, however, undertakes some things which are of such a nature as to be beyond the power of localities.

37. The State Board of Health consists of seven persons, appointed by the governor, with the approval of the Senate, for a term of seven years. One is ap-

pointed each year. The board has power to establish quarantines, to investigate sanitary matters and to make sanitary regulations, has charge of the State system of registration of births and deaths, and determines the legal qualifications of physicians to practice medicine.*

38. The State Board of Pharmacy consists of five persons, themselves duly qualified pharmacists, appointed by the governor for a term of five years, one each year.† Its duties are to examine applicants for certificates of authorization to compound and dispense medicines, to issue such certificates to persons found competent, and to prosecute persons who dispense drugs without such certificates.

39. The State Board of Dental Examiners has a like constitution with the board of pharmacy, and performs similar duties with reference to practicing dentists.‡

No one has a right to practice as a physician, or as a dentist, or to dispense drugs in Illinois, who is not duly qualified under the laws of the State. The three boards above named are created in order to enforce those laws. The object is to prevent danger to life and health from ignorant and unskilful persons.

40. Laws for Protection of Coal Miners—Coal mining is a very dangerous employment—dangerous in many ways. In order to protect those engaged in this employment against such dangers the laws make very specific regulations and require a careful inspection of mines by experts. The inspectors are selected in ac-

* Rev. Stat., c. 126a, c. 91, § 5. † Rev. Stat., c. 91, §§ 18–34.

‡ Rev. Stat., c. 91, §§ 35–44.

cordance with a carefully planned system. The board of labor commissioners (p. 107) appoints a board of examiners, consisting of two coal miners, two coal operators, and one mining engineer. On the recommendation of this board the governor appoints seven duly qualified inspectors, one for each of the seven districts in which the State is divided for the purpose. These inspectors make careful inspection of all coal mines and appurtenances in the State, in order to make sure that the mining laws are properly observed.*

41. State Board of Factory Inspectors—Some manufacturing industries also are accompanied by dangers and evils which the State tries to prevent. Clothing is at times made or repaired in small and crowded rooms reeking with filth and disease. Such work is dangerous to those employed in it, and is, perhaps, equally dangerous to any who may afterwards handle or use the garments. Workshops are often badly planned for health and comfort. Young children are employed for long hours in factories when they ought to be in school. These and similar evils the laws are intended to remedy.† In order to have these laws properly enforced, a State Board of Factory Inspectors is created.‡ This board consists of one inspector, one assistant inspector, and ten deputy inspectors. Five of the deputies must be women. The governor makes the appointments. The inspector has a term of four years, and the others hold during good behavior.

42. State Board of Examiners of Architects—The proper construction of buildings has an important

* Rev. Stat., c. 93.

† Rev. Stat., c. 48.

‡ *Ibid.*, § 29.

relation to personal safety. If the architecture is grossly defective the building itself may collapse, to the great danger of life and limb; it may be a fire-trap, or the sanitary arrangements may cause disease. For these reasons the laws regulate the profession of architects, and the enforcement of those laws is put in the hands of a State Board of Examiners of Architects. No architect can practice his profession in the State unless properly licensed by this board.*

PROTECTION AGAINST FRAUD, EXTORTION, AND INCOMPETENCE

43. There are some forms of fraud, extortion, and incompetence against which it is very difficult for individuals to protect themselves. Laws are made, therefore, to prevent these evils, and officers are provided whose particular duty it is to see that these laws are enforced.

44. The Railroad and Warehouse Commission consists of three persons, appointed by the governor, with the approval of the Senate, for a term of two years.† It is their duty to inspect railroads and warehouses for the storage of grain, and to enforce the provisions of the State laws regulating the methods of doing business and the maximum charges which can be made. These laws are based on Articles XI. and XIII. of the State Constitution.

45. Chief Inspector of Grain—To aid the commission in their work the governor is required to appoint

* Act of 1897.

† Rev. Stat., c. 114, §§ 167, 184.

a chief inspector of grain, with the approval of the Senate.* His term is two years. On his recommendation the Railroad and Warehouse Commission are authorized to appoint a suitable number of assistant inspectors. The inspectors of grain are controlled by the commission.

46. Insurance on both person and property has become one of the most important facts in modern society. The policies in Illinois alone amount to many millions of dollars, and involve the interests of a large proportion of the people of the State. To guard the interests of all concerned, the laws make many explicit regulations as to the method of carrying on insurance business, and the supervision of such business and the enforcement of the insurance laws are entrusted to an *insurance department*,† at the head of which is a *superintendent*, appointed by the governor, with the approval of the Senate, for four years.

47. Board of Examiners of Horseshoers—Serious damage may be done to horses by unskilful work in shoeing, especially in large cities, and the laws accordingly provide for a Board of Examiners of Horseshoers. This board issues licenses, and no one without a license is allowed to practice as a horseshoer in the cities in which the law is in force. The law applies to cities of 50,000 or more people. Cities of between 10,000 and 50,000 may come under the provisions of the law if they wish.‡

* Rev. Stat., c. 114, § 146.

† Rev. Stat., c. 73.

‡ Act of 1897.

ENCOURAGEMENT AND PROTECTION OF CERTAIN INDUSTRIES

48. The fertile soil of Illinois has from the first settlement made agriculture a leading industry. For the encouragement and improvement of farming, fairs are held, in which there is competition for prizes bestowed on exhibitors of choice farm stock and products. Farmers' institutes are also conducted in various parts of the State, in which methods are discussed and instruction is given. An annual meeting of the same kind is also held at some one place in the State. Horticulture is also encouraged. Money is appropriated by the Legislature for all these objects, and the management of these funds is placed in the hands of various boards.

49. The State Board of Agriculture consists of a president, the last ex-president, and from each congressional district of the State one vice-president.* The presidents and vice-presidents are elected for two years by delegates from the county agricultural societies, meeting at the State fair in the even-numbered years. The board has charge of the work of the State department of agriculture and of the State fairs.

50. The State Horticultural Society is made by law a public corporation, and is given certain funds by the State for the encouragement of horticulture.† The affairs of the society and the management of its funds are entrusted to an elected executive board.

51. The Illinois Farmers' Institute is made a public corporation and manages funds contributed by

* Rev. Stat., c. 5.

† Rev. Stat., c. 5, §§ 16-22.

the State.* It consists of three delegates from each county, elected annually by the county farmers' institutes. The affairs are managed by a board of directors, consisting of several members *ex officio*, the State superintendent of public instruction, the professor of agriculture in the University of Illinois, the presidents of the State Board of Agriculture, of the State Horticultural Society, and of the State Dairymen's Association, and of one member from each congressional district, chosen by the delegates at the annual meeting.

52. State Board of Live Stock Commissioners.—The protection of domestic animals from contagious and infectious diseases is very important for the business interests of the State. The laws provide means for doing this, and entrust those means to the State Board of Live Stock Commissioners.† The commissioners are three in number, appointed by the governor for three years, one being appointed each year. They must be practiced stock breeders, and must not all be of the same political party.

53. Board of Fish Commissioners.—The presence in the waters of the State of abundance of edible fish not only affords sport, but also assures a valuable source of food supply. However, in the ordinary course of things it would not be long before the fish in the lakes and streams would be practically exterminated. To prevent this, laws have been passed‡ which regulate the time and manner of catching fish, forbid certain measures which would destroy them, and provide for the stocking of the waters so that the supply

* Rev. Stat., c. 5, §§ 43-51.

† Rev. Stat., c. 8, §§ 47-61.

‡ Rev. Stat., c. 56.

may be kept up. The enforcement of these laws is put principally in the hands of the Board of Fish Commissioners. They are three in number, appointed by the governor for a term of three years each. One is appointed annually.

The commission gives particular attention to hatching fish, and distributing the young among the waters of the State. On recommendation of the commission, also, the governor appoints fish wardens, who have power to arrest any violators of the laws for the preservation of fish.

54. Game Wardens—Similar conditions make it necessary for the State to take measures for preventing the destruction of game animals on the land.* The laws for this purpose are especially enforced by game wardens. The governor may appoint three, for a term of two years, one from each of the largest three cities of the State. The wardens watch for the unlawful sale of game.

55. Bureau of Labor Statistics—Many laws have been passed for the protection of manual laborers. In order to secure accurate knowledge on such subjects, the Legislature has established a Bureau of Labor Statistics,† which is managed by the Board of Commissioners of Labor. The board consists of five persons, appointed by the governor, with the approval of the Senate, for a term of two years. Three must be manual laborers, and two must be employers of such labor. It is the duty of the board to gather statistics relating to manual labor, and to embody these statistics in a biennial report to the General Assembly.

* Rev. Stat., c. 61.

† Rev. Stat., c. 17b.

56. State Board of Arbitration and Conciliation

—Disputes between manual laborers and their employers have at times led to serious troubles which have endangered the public peace. In order to prevent such occurrences, the laws provide for a State Board of Arbitration and Conciliation,* the purpose of which is to induce the parties to such a dispute to settle their differences amicably. The board consists of three persons, appointed by the governor, with the approval of the Senate, for a term of three years. Not more than two may belong to the same political party. One must be an employer of labor, one an employee, and one must be neither.

PUBLIC WORKS

57. Public Works consist of buildings or engineering constructions which are undertaken by the government because they are thought to be for the general interest. Thus the United States builds custom-houses and post-offices in various cities, and improves harbors and rivers for the benefit of navigation. Several European nations own and operate railroads and telegraph lines. At one time Illinois undertook an extensive system of railroads.

58. Internal Improvements, 1837-40—The General Assembly in 1837 authorized an expenditure of over \$10,000,000 for internal improvements, as the works were called. The plan contemplated improvement of the navigation of several rivers, and a series of railroads from east to west and north to south across

* Rev. Stat., c. 10, §§ 19-27.

the State. The work was begun, but was never carried to completion. It was abandoned in 1840, leaving the State heavily in debt, and with little to show for it but a few piles of dirt.

59. Illinois Central Railroad—In 1850 Congress passed an act which granted to the State of Illinois nearly 3,000,000 acres of public land for the construction of a railroad through the centre of the State, with a branch to Chicago. Owing to the disastrous experience with the plan of 1837, the General Assembly did not think it wise to undertake the work on State account, but in 1851 passed an act by which the entire land grant was given to a private corporation (The Illinois Central Railroad Company) on condition that they should build the road. There were some other stipulations, one of which was that in lieu of all taxes the company should pay into the State treasury annually seven per cent. of the net earnings of the road. In the Constitution of 1870 it was provided that neither the Legislature nor any other branch of the State government should ever have power to modify or rescind this arrangement (separate section following Art. XIV., Ill. Const.).

60. Illinois and Michigan Canal—While the public works authorized in 1837 proved a failure, there was one undertaking which was carried to completion—the Illinois and Michigan Canal. The portage between Lake Michigan and the Des Plaines River was long used by the French explorers, and the idea of connecting these waterways by a canal was suggested at an early date. In 1822 Congress authorized the State to construct the canal through the public land, and in 1827 in addition gave the State a grant of land which

might be sold to pay the cost. The actual work was begun in 1836, and was carried on, through many financial difficulties, until its completion in 1848. The debt incurred was paid off in 1871. The canal is ninety-three miles long, and extends from Chicago to Lockport, at the head of navigation on the Illinois River.

The State Constitution forbids the sale or lease of the canal without the consent of the people, given at one of the general elections (separate Section III., Ill. Const.)

The canal is controlled by a commission of three persons, appointed by the governor, with the approval of the Senate, for two years.*

61. Buildings belonging to the State are mostly those of the State institutions—the university, penitentiaries, asylums, and the like. They are built and controlled by the respective boards.

The State Capitol at Springfield is a building which was constructed under authority of an act passed by the General Assembly in 1867. Its cost was upwards of \$4,000,000. In it are rooms for the sessions of the two houses of the Legislature and of the Supreme Court, besides offices for the governor and for many other executive officers and boards. It also contains the State libraries. The Legislature is forbidden to make appropriations for the building and grounds to exceed \$3,500,000 without the consent of the people given at a general election (Art. IV., § 33). The secretary of state is the custodian of the building.

* Rev. Stat., c. 19, § 1.

AUXILIARY BOARDS

62. In order more perfectly to carry out the Constitution and laws, several commissions are created whose duties are to aid in the performance of duties assigned to certain specific departments of the government.

63. Election Boards—The election of State officers and of Federal Presidential electors and representatives is by the people. It is necessary that the official report of these elections should be reviewed by some competent authority which shall officially determine and announce the results.

All election returns for Presidential electors, representatives in Congress, members of the State Legislature, State judicial officers, and members of the State boards of equalization are sent by the county clerks to the secretary of state. That officer, together with the auditor of public accounts and the attorney-general, form the State Board of Elections to verify the returns.

Election returns for the offices of governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, and superintendent of public instruction are sent by the county clerks to the secretary of state in sealed envelopes addressed to "The Speaker of the House of Representatives." * On the meeting of the General Assembly, the speaker opens the envelopes in the presence of both houses, and reads the returns. The Legislature acts as a State board of elections to verify these returns and to settle contests (Art. V., § IV.).

64. Commission of Claims — According to the Constitution of the United States (Amendment XI),

* Rev. Stat., c. 46, §§ 76-78.

a State cannot be sued by any citizen. Accordingly, if individuals have any legal claims against the State, founded on any law or on any contract with the State government, the only way of getting these claims paid, if there is a dispute, is to lay the matter before the General Assembly. In order to save the time of that body, it has been provided by law that there shall be a Commission of Claims.* This body is composed of three persons, lawyers, not more than two of whom may belong to the same political party. They are appointed by the governor, with the approval of the Senate, for four years. The commission meets annually at Springfield, in August. Their awards on claims are reported to the governor, and by him are laid before the Legislature.

65. State Board of Equalization—Taxes voted by the General Assembly are based on the value of property throughout the State, as determined by the assessors and the various county boards (p. 151). The county clerks report the results to the State auditor. It is quite possible that assessors in different counties may not always determine the value of property on the same basis, and therefore that some counties may be assessed too much and others too little. Of course this makes no difference for county taxes, but it would not be fair in laying State taxes. To remedy this difficulty the law provides for a State Board of Equalization.† This board consists of one member from each congressional district, chosen by the people at the same time as the choice of Presidential electors, for a term of four years. It is the duty of the board to equalize

* Rev. Stat., c., 26a.

† Rev. Stat., c. 120, §§ 100-116.

the assessment of property values among the counties by raising or lowering such as they think proper, within certain limitations.

66. State Board of Pardons—As has already been explained, the governor has the power to pardon criminals (p. 79). In order to relieve him to some extent from the great labor and pressure involved in the exercise of this power, the General Assembly by law has established a Board of Pardons. This consists of three persons, not more than two of whom may belong to one political party. They are appointed by the governor for three years.

The constitutional provision which gives the governor the pardoning power (Art. V., § 13) reserves to the Legislature the right to prescribe the manner in which applications for pardons shall be made. The law requires the application to go to the board, which then considers the case and recommends to the governor such action as in the opinion of the board is proper. The recommendation of course is not binding on the governor; and a petition for reprieve in case of a death penalty may go directly to the governor.*

* Act of 1897.

CHAPTER VIII

THE JUDICIARY

LAW AND COURTS

(See also pp. 75-86)

1. Rights—Two of the main reasons for having a government are in order that people may know their rights, and in order that these rights may be protected.

People have a right, for instance, to own and use property—to move about freely from place to place—to make agreements with one another.

Without a government there may be great differences of opinion as to what are the things to which people have rights, and it may be very difficult for people to protect themselves against others who are unscrupulous. In countries newly settled there has sometimes been just that state of things, and every one there has had to be ready to defend life and property by force.

Government, then, makes laws which enumerate and define rights; at the same time the government provides the means of protecting such rights.

2. Obligations—On the other hand, no one has any business to interfere with people in the enjoyment of their rights. One who deprives another wrong-

fully of his property, for example, is a thief or a robber. The duty to respect the rights of others is what we mean by an *obligation*.

3. Criminal Laws—There is one class of laws which forbid certain acts to be done, and prescribe a penalty for the commission of such acts. The violation of one of these prohibitions is a *crime*. The laws in question are called *criminal* laws.

The Illinois criminal code contains a long list of acts which are forbidden as crimes—burglary, murder, perjury, and many others.* One large part of the business of the police and of law courts is taken up with the prevention, detection, and punishment of criminals.

4. Civil Suits—People who are not criminals may differ as to what are their rights. There may be difference of opinion as to the facts in dispute, and difference of opinion as to what the law means. The laws define the rights at issue, and in such cases, if the parties cannot agree, it is the business of the courts to decide what are the facts and how the law applies. Such business of the courts is called *civil*, instead of criminal. For instance, two men may have a contract. In carrying it out they may not be able to agree. Then, at the request of one of them, it is for the courts of law to decide what are the respective rights of the parties under the law which regulates contracts. So far as law is concerned, then, people have only those rights which the laws enumerate and define, and are under obligation to do or not to do those things which the laws specify.

The supreme law of the land—the law with which

* Rev. Stat., c. 38.

no other law must conflict—is the Constitution and laws of the United States.

Next in importance, in this State, is the Constitution of Illinois. Neither the Legislature nor any other authority in the State may enact a law which conflicts with the State Constitution.

5. Illinois Revised Statutes—The great mass of laws which determine private rights in Illinois—*i. e.*, the rights of individuals—are the laws of the State, found either in the Constitution or in the statutes passed by the Legislature. They are nearly all gathered together in a large volume called the “Revised Statutes.” As at every session the Legislature makes more laws, the Revised Statutes will seldom have quite all the laws of the State.

6. English Law—Very many of the rules of law followed by our courts are English. Before the Revolutionary War the laws of England were in force throughout the colonies. The lawyers and the courts were accustomed to English legal methods and rules. These have been continued. The General Assembly has enacted that the laws of England which were in force when the first English settlement was made in America (1607), with some express exceptions, and so far as these laws are applicable here (*i. e.*, so far as they are not peculiarly applicable to England), shall continue to be in force in this State until repealed by act of the Legislature.*

Such laws are of two kinds. Part of them are acts of the English Parliament. Part are what is known as the Common Law.

* Rev. Stat., c. 28.

7. Common Law—The Common Law is simply the long-established customs of the English courts. Many of these customs, whose origin goes back so far as to be lost in antiquity, still prevail in the Illinois courts.

Of course, if an act of the Legislature conflicts with any portion of the Common Law, the act stands and has the effect of repealing the custom which it contravenes.

8. Criminal Cases—If a person is arrested on the charge of committing a crime, it is a principle of American law that penalty cannot be inflicted until the guilt of the accused is proved by a trial before a court of law. This court consists of a judge, who presides and decides questions of law, and a jury, which (in Illinois) decides questions both of law and fact. In most States the jury decides merely questions of fact.

The judge is an officer of the State who holds office for a definite term of years.

The jury consists of citizens who are selected to act for a given trial, or during a particular session of the court.

9. Civil Cases—If there is a dispute between people as to their rights, and they are unable to agree, the dispute may be settled by a trial in a court of law. The court usually consists, as in criminal cases, of judge and jury.

10. Appeals—It is also the custom to allow either party to a suit, if he is dissatisfied with the decision, to appeal to a higher court (pp. 119, 120, 122).

11. Grades of Courts—The judiciary department, then, must contain a series of courts, so that appeals

may go from one to the next higher, with one highest of all for the whole State.

The lowest courts are local, and will be described under the head of "Local Government" (pp. 130, 132).

The State courts are of three grades—Circuit, Appellate, and Supreme.

CIRCUIT COURTS

12. Circuits—The State is divided by act of the Legislature into (at present) thirteen circuits, outside of Cook County. Each consists of contiguous counties, and they are approximately equal in population. The judges of the circuit courts are elected by the people of the respective circuits * (Art. VI., § 15).

13. Circuit Judges—Election—Three judges are chosen in each circuit, for a term of six years. The election is held the first Monday of June (Art. VI., § 12). The first under this law was in 1879. The purpose in holding the election in the summer is to keep the selection of judges, as far as possible, free from party politics.†

14. Qualifications—The qualifications for election to a circuit judgeship are age, citizenship, and residence. The candidate must be a citizen of the United States, at least twenty-five years of age, a resident of the State five years next preceding the election, and a resident of the circuit at the time of the election (Art. VI., § 17).

15. Salary—The salary of circuit judges is \$3,500, except in Cook County (p. 119), in which the salary is

* Rev. Stat., c. 37, § 72.

† Rev. Stat., c. 37, § 75.

\$7,000. The salary cannot be increased or diminished during the term for which a judge is elected (Art. VI., § 16).*

16. Terms—Each judge in a circuit holds court successively in the various county seats.† It is for this reason that the court is called *circuit*. The judges arrange among themselves the order in which they shall severally visit the different counties. The law fixes the dates of holding court at each county seat ‡ (Art. VI., § 14).

17. Jurisdiction—The original jurisdiction of a circuit court extends to all cases in law and equity (Art. VI., § 12). The appellate jurisdiction of the circuit court covers appeals from county courts and probate courts, with certain exceptions, and from justices of the peace.§

18. Courts of Cook County—Cook County, on account of its great population, constitutes a judicial circuit, and has a large number of judges. Besides the circuit judges, there are also the judges of a superior court, with similar jurisdiction.

APPELLATE COURTS

19. Appellate Districts—The State is divided by act of the General Assembly into four appellate court districts || (Art. VI., § 11). Cook County is one. The others are the three former Supreme Court grand divisions—Northern, Central, and Southern. In each

* Rev. Stat., c. 53, §§ 3, 61.

† Rev. Stat., c. 37, § 74.

‡ Rev. Stat., c. 37, §§ 77-78m.

§ Rev. Stat., c. 37, §§ 212, 226 ; c. 79, § 115.

|| Rev. Stat., c. 37, §§ 18, 1.

district there is an appellate court of three judges. The places of meeting are Chicago, Ottawa, Springfield, and Mt. Vernon.

20. Selection—The three judges are selected by the Supreme Court from the circuit judges of the district. In Cook County they are selected from circuit or superior judges.*

21. Jurisdiction—The appellate court has no original jurisdiction,† but hears only appeals and writs of error from the lower courts—the circuit courts, the superior courts of Cook County, county and probate courts, and city courts—as regulated by statute. Criminal cases, cases involving the validity of a law, and some others are not appealed to the appellate courts, but go directly to the Supreme Court. In cases of minor importance the decision of the appellate court is final. Others may be further appealed to the Supreme Court. But if the appellate court thinks proper, any case decided by it may be appealed to the Supreme Court.

22. Organization—The three judges of an appellate court sit together, choosing one of their own number to preside. Two are necessary for a quorum, and the concurrence of two for the validity of a decision. There is no jury.‡

THE SUPREME COURT

23. The Highest Court of the State is the Supreme Court, which holds its sessions in the capitol at Springfield (Art. VI., §§ 2–10).

* Rev. Stat., c. 37, § 22.

† Rev. Stat., c. 37, § 25.

‡ Rev. Stat., c. 37, §§ 23, 24.

24. Election—The Supreme Court consists of seven judges elected by the people for a term of nine years. The election is held on the first Monday in June. They are not all chosen at the same time. The term of one expires in 1900, of a second in 1903, and of the remainder in 1906. This comes about because under the Constitution of 1848 the Supreme Court consisted of three judges, elected for nine years, one being chosen every three years. The Constitution of 1870 added four more, and prescribed that they should be elected for the next ensuing nine-year term.

25. Districts—For the election, the State is divided into seven districts, and each district elects one judge.* The term of the judge chosen in the fifth district expires in 1900, and that of the judge chosen in the fourth district in 1903.

26. Qualifications—The qualifications for election are citizenship, age, and residence (Art. VI., § 3). The candidate must at the time of his election be a citizen of the United States, at least thirty years old, a resident of the State for the five years next preceding the election, and a resident of the district in which he is chosen.

27. Salary—The salary of supreme court judges as fixed by the Legislature is \$5,000 † (Art. VI., § 7). This salary cannot in any case be increased or diminished during the term for which a judge was elected.

28. Organization—The judges meet together, four constituting a quorum, and the concurrence of four is necessary to a decision. They elect one of their number as chief justice. The court appoints a reporter for the term of six years (Art. VI., §§ 2, 6, 9).

* Rev. Stat., c. 37, § 2.

† Rev. Stat., c. 53, § 60.

29. Terms—The court holds four terms a year. Until 1897 the court met at three places: Springfield, Ottawa, and Mt. Vernon. The State was divided into three grand divisions, and the court met in each. Now the meeting is at the seat of government, Springfield.*

30. Jurisdiction—The Supreme Court has original jurisdiction in cases relating to the revenue of the State and to cases of *mandamus* and *habeas corpus* (Part I., pp. 88, 160). In all other cases the court has appellate jurisdiction (Art. VI., § 2).

A writ of *mandamus* is an order issued by the court directing some one to do a certain act.

Appeals come to the Supreme Court from county and probate courts, from circuit courts and the superior and criminal courts of Cook County, from city courts, and from appellate courts, as prescribed by statute.† The decision of the Supreme Court is final, unless under circumstances which permit appeal to the Supreme Court of the United States.

* Rev. Stat., c. 37, § 1.

† Rev. Stat., c. 37, §§ 257, 227, 213, 88, 25.

CHAPTER IX

LOCAL GOVERNMENT—COUNTIES AND TOWNS

POLITICAL DIVISIONS OF THE STATE

(See also Chap. III.)

1. By Local Self-government in the United States we mean the government of each subdivision of a State by the people who inhabit that subdivision. It is the American practice to extend local self-government in this sense as far as possible.

There are many matters of public concern which are, however, of public concern only for the people of a portion of the State. These people, then, ought to regulate such matters as they please. Things which interest the whole State, on the other hand, belong to the whole State to manage.

2. Counties—The State is divided into counties (p. 28). In Illinois there are now 102 counties. The first county organized within the present limits of the State, as has been said before, was St. Clair County. It was organized by General Arthur St. Clair, Governor of the old Northwest Territory, in 1790, and was named from him. As the population of the State grew and spread, this county was subdivided, and more counties were formed. They bear the names, some of eminent politicians, statesmen, or soldiers, like Washington, Hamilton, Knox, Jefferson, Jackson; some of men prominent in State affairs, like Menard (from the

first lieutenant-governor), Bond (from the first governor of the State), La Salle (from the famous French explorer); some from the names of rivers or Indian tribes, like Kankakee, Sangamon, Winnebago, Iroquois.

3. Towns and Townships—The counties are in many cases divided into towns, often loosely called townships (p. 30). These are not the same. Even if the boundaries of the town coincide with those of a congressional township, it must be remembered that even then township and town are different things. The one is a piece of land irrespective of whether it has inhabitants or not. The other may be the same piece of land, but it is that land inhabited—it is a town only because it is inhabited, as a convenience for local government. In short, a *town* is a unit of local government in a county; a *township* is a unit of measure in the land survey, without any regard to counties or States.

COUNTY GOVERNMENT

4. The counties are units of local government into which the State is divided. Counties are formed merely for convenience of government. Each county, then, has a government of its own.

5. The County Board—In the county government the legislative and executive branches are not so sharply divided from each other as is the case in the State. The county legislature is the County Board. In a county which is divided into towns, the County Board is called the Board of Supervisors.* In counties not so divided and in Cook County, the board is called

* Rev. Stat., c. 34, § 23.

the Board of County Commissioners. But the County Board is more than a legislative body. It also has a number of administrative duties. In this respect it is quite like the various State executive boards which we have already examined. Indeed it is for this reason that the name "board" is applied to the county legislature.

6. The Board of Supervisors—A Board of Supervisors is composed of one supervisor from each town, elected for one year at the annual town meeting the first Tuesday in April. Of course, then, there are as many supervisors in the board as there are towns in the county. The board chooses its own chairman. A majority of all the supervisors forms a quorum.

7. Board of County Commissioners—A Board of County Commissioners is composed of three persons, elected by the people of the county for a term of three years* (Art. X., § 6). One commissioner is elected annually, on the Tuesday after the first Monday in November. The board, therefore, like the State Senate, is a continuous body. They elect their own chairman. A majority of the members forms a quorum.

8. Board of County Commissioners in Cook County—The Board of County Commissioners in Cook County consists of fifteen persons, ten from Chicago, elected by the voters of Chicago, and five from the remaining towns of the county, elected by the voters of those towns. The term is two years. All are chosen at each general election, in November. The president of the board is elected by the people, being one of the fifteen designated for that office.†

* Rev. Stat., c. 46, § 28.

† Rev. Stat., c. 34, §§ 60, 61.

9. Powers and Duties of County Boards—The County Board manages the public buildings and money of the county, lays taxes for county purposes, and performs such other duties as the law may direct. The public buildings of the county are a court-house and jail, and sometimes others—for instance, an insane asylum, work-house (for criminals), and poor-house. The County Board also equalizes assessments for the county, as the State Board does for the State (p. 112).*

10. County Executive and Judicial Officers—The duties of the County Board are, as has been said, largely executive. But there are also county officers whose duties are wholly executive. There are others whose duties are partly executive and partly judicial.

Each county has a clerk, treasurer, sheriff, coroner, State's attorney, superintendent of schools, surveyor, and clerk of the circuit court (Art. X., § 8; Art. VI., § 22; Art. VIII., § 5).

In counties not under town organization, the treasurer acts as assessor and the sheriff as collector of taxes.† In counties with a population of 60,000 or more there is also a recorder of deeds.

In Cook County there are also a clerk of the superior court and a clerk of the criminal court. In counties which have a probate judge there is also a probate clerk.

Each of these officers is elected by the people at one of the general elections for a term of four years, the term beginning the first Monday in December next

* Rev. Stat., c. 34, §§ 25, 26; c. 120, §§ 97, 98.

† Rev. Stat., c. 46, §§ 16-27.

following the election. The treasurer and sheriff are ineligible for a second successive term.

The treasurer, recorder of deeds, surveyor, State's attorney, and clerks of circuit and superior courts are elected at the same time as the governor. The others are elected two years later.

11. No Supreme Executive Officer—There is in the county no one officer vested with supreme executive power, and so corresponding to the governor of the State. So far as such power exists in the county it is in the hands of the County Board. But the county officers are to a large extent independent of the board, just as the State heads of departments are of the governor (p. 74).

12. The County Clerk keeps the records both of the County Board and of the county court.* He records and issues warrants on the treasurer, issues marriage licenses, keeps records of assessment of taxes and furnishes the same to tax collectors, and keeps such other records as may be required by law.

13. The County Treasurer receives and keeps the money of the county, and pays it out as may be authorized by law.† He has his accounts examined and verified by the County Board every six months.

14. The Sheriff is the chief peace officer of the county.‡ It is his duty to prevent or suppress public disorder or crime, and to arrest offenders.

He also serves and executes all writs, warrants, and other judicial orders legally entrusted to him.

* Rev. Stat., c. 25, § 2; c. 35, §§ 9, 10; c. 120.

† Rev. Stat., c. 36; c. 120, § 144.

‡ Rev. Stat., c. 125, §§ 14-19.

He attends all courts of record held in the county and obeys the lawful orders of such courts.

He is the custodian of the court-house and jail, and performs such other duties as may be required by law.

The sheriff appoints deputies to aid him in his duties.

15. The Coroner ascertains the cause of death of persons who are supposed to have died by violence, accident, or any unlawful means.* This investigation is called an inquest, and the coroner is aided by a jury of six men, whom he selects. If the verdict of the jury incriminates any one, it is the duty of the coroner to cause an arrest.

The coroner is also a conservator of the peace. He acts as sheriff in case of vacancy in that office, or in any case in which the sheriff is interested.

16. The State's Attorney is the official lawyer of the county government.† He manages for the county all suits at law to which the county is a party. It is his duty to see that persons whom he believes to be criminals are indicted by the grand jury and arrested, and he conducts the case against the accused at the trial. He is the legal adviser of the officers of the county government.

17. The County Superintendent of Schools is entrusted with the general supervision of the public schools of the county.‡ He inspects the schools, advises teachers and schools' officers, holds teachers' institutes, examines and licenses teachers, and performs many other duties.

* Rev. Stat., c. 31.

† Rev. Stat., c. 14, § 5.

‡ Rev. Stat., c. 122, §§ 19, 20.

18. The County Surveyor makes surveys of land at the request of any individual, and keeps records of the same.*

19. The Clerks of Courts keep record of the proceedings of their respective courts, and of all matters relating thereto.†

20. The Recorder of Deeds keeps records of all papers relating to the ownership of lands—deeds, mortgages, and the like.‡ In counties with a population of less than 60,000, the clerk of the circuit court acts as recorder of deeds.

It will be seen that the county clerk, sheriff, and coroner are partly executive and partly judicial in their functions, that the treasurer, recorder of deeds, surveyor, and superintendent of schools are wholly executive. The State's attorney and clerks of courts are judicial officers.

21. The Torrens Land Title System—The land records of each county show the title to every piece of land within the county limits. These records are very complicated, as it is necessary to enter in the books every transaction relating to any real estate. For this reason when an owner has occasion to prove that there is no flaw in his title, if he wishes to sell his land or to borrow money on mortgage, for instance, it often takes much time and costs much money to accomplish his purpose.

A recent law—called usually the “Torrens” law, from the name of Sir Robert Torrens, an Australian who put the principle in its present form—is intended to simplify this process. §

* Rev. Stat., c. 133, § 4.

† Rev. Stat., c. 25, § 13.

‡ Rev. Stat., c. 115.

§ Act of May 1, 1897.

Each county may adopt the plan or not, as may be decided by the voters at a general election.

In a county in which the system is in operation the recorder of deeds is made *registrar of land titles*. Any one who has an interest in real estate may have the title registered in the office of the registrar. That officer examines the title, and if he decides that it is a good one he issues a *certificate of title*. A similar certificate is given thereafter each time the land is sold or in any way encumbered with debt. This makes the whole process of land transfer much more simple and safe.

A person registering his title pays a fee. The fees thus received are kept by the county treasurer as a fund from which damages are paid to any one who suffers loss by a wrongful decision with reference to any title.

22. Compensation—County officers are paid either in salaries or fees, or both. In no case must the salary exceed the amount of the fees collected in the course of duty (Art. X., §§ 9, 10).

23. The County Judiciary—Each county has a county court. The presiding officer is the county judge (Art. VI., §§ 18, 19).

The county judge is elected by the people of the county for a term of four years. The election occurs at the general election midway in the governor's term, and the judge takes office the first Monday in December following. The salary is fixed by the County Board.*

The county court is held in the court-house at the county seat.

* Rev. Stat., c. 37, § 89, etc.

The jurisdiction is of two kinds—law and probate.

The law jurisdiction is concurrent with that of the circuit court in all matters of the same kind as are triable in the court of a justice of the peace (p. 134), provided the amount in dispute shall not exceed \$1,000; and in all criminal cases in which the offence charged is not an infamous crime (p. 134).

24. Probate Courts—The probate jurisdiction extends to the proving (“probate”) of wills; the settlement of the estates of deceased persons, whether they leave a will or not; the appointment of guardians; proceedings for the collection of taxes; and some other matters.

In counties having a population of over 50,000 the General Assembly may establish separate probate courts (Art. VI., § 20).^{*} The law in fact puts the limit at 70,000.

The probate judge is elected at the same time as the county judge, for the same term. The salary is fixed by the County Board. His jurisdiction is the probate jurisdiction of the county court.

TOWN GOVERNMENT

25. Towns are subdivisions of a county, organized for convenience of local government.[†] Nearly all the counties of the State now have the town system of government.

As in the State and the county, there are the three branches of government—legislative, executive, and judicial.

^{*} Rev. Stat., c. 37, § 216.

[†] Rev. Stat., c. 139.

26. The Town Legislature—The legislature of the State and that of the county are representative bodies, elected by the voters. In the town, on the other hand, the legislature is the voters themselves, assembled in mass meeting.

The annual town meeting is held on the first Tuesday in April.* Towns wholly included within the limits of a city hold the election on the same day as the city election (p. 138). The town clerk elected the year preceding acts as clerk of the meeting. A chairman is chosen, called the moderator.

The business of the town meeting is the election of town officers and legislation for the town. Legislation may consist of laying taxes for roads, bridges, and a few other purposes, providing for keeping the roads clear of stray cattle, and a few other things. At the annual meeting the officers present their reports for the year past.

Special meetings of the town may be called when necessary.

27. The Town Executive Officers—The town executive officers are the supervisor, clerk, assessor, collector, and three highway commissioners. They are elected at the annual town meeting by ballot, the supervisor for two years, the highway commissioners for three years, and the others for one year.

28. The Supervisor is a member of the County Board—receives and pays out county money (except that for roads and bridges), is overseer of the town poor, and performs some other duties.†

* Rev. Stat., c. 139, §§ 51, 40, 138, etc.

† Rev. Stat., c. 139, § 101, etc.

The supervisors of Cook County are not members of the County Board.

In populous towns assistant supervisors are elected, who are members of the County Board, but have no duties as town officers.*

29. The Town Clerk keeps the records of town meetings, certifies to the county clerk the amount of taxes required for town purposes, and has a few other duties.

30. The Assessor estimates the value of the property of each taxpayer in the town, and renders an exact statement of the same to the county clerk. The taxes to be raised, whether State, county, or town, are levied on the taxpayers in proportion to the assessed value of their property.

31. The Collector collects the tax from each taxpayer, and turns the money thus collected over to the town officers authorized to receive the same (the supervisor and the highway commissioners) and to the county collector (p. 126) respectively. The part of the tax which is for the county and the State goes to the county collector.

32. One Highway Commissioner is elected each year.† The three commissioners choose one of their number as treasurer. He receives the money paid in by the collector for roads and bridges, and pays it out on the order of the commissioners—two being a quorum. The roads and bridges in the town are under the charge of the Highway Commission. The road tax may be paid in money or in labor if the voters so decide.‡

* Rev. Stat., c. 139, § 110.

† Rev. Stat., c. 121, §§ 2-5.

‡ Rev. Stat., c. 121, § 80.

33. The Town Judiciary Officers—Election and Tenure—The town court is that of the *justice of the peace*. The justices are elected by the people for a term of four years (Art. VI., § 21). There are at least two chosen in each town, at the April town meeting next following the election for governor. An additional justice is elected for each thousand inhabitants in excess of two thousand, until the whole number reaches five—which is the greatest number allowed to any town.*

34. Chicago Justices—The Chicago justices are appointed by the governor, with the approval of the Senate, on nomination by the judges (circuit, superior, county, and probate) in Cook County.†

35. Jurisdiction—The jurisdiction of justices of the peace extends to civil cases of certain kinds in which the value in dispute does not exceed two hundred dollars, to misdemeanors in which the penalty is a fine not exceeding the same amount, to cases of assault and battery, and other minor matters.‡

36. Jury—Either party to a trial in a justice's court may demand a jury, which shall consist of any number from six to twelve, as either party may decide.§

37. A Misdemeanor is any offence against the laws which is not a felony. ||

38. A Felony is an offence punishable with death or imprisonment in the penitentiary. This is what is meant by an *infamous* crime.

39. Assault and Battery is the unlawful beating of

* Rev. Stat., c. 79, § 1.

† Rev. Stat., § 2.

‡ Rev. Stat., § 16.

§ Rev. Stat., § 48.

|| Rev. Stat., c. 38, §§ 277, 278.

another. *Assault* is an attempt to do violent injury to another coupled with a present ability to do it.*

40. Constables are the town police officers. There is one elected for each justice of the peace, at the same time and for the same term.

The constable is the peace officer of the town, as the sheriff is of the county.† It is the constable's duty to put down public disorder, to arrest persons suspected of offenses against the laws. He also executes warrants.

A warrant is a judicial order to a peace officer, authorizing search or arrest.

41. Town Boards—The town officers form certain boards for specific purposes.

42. The Board of Town Auditors consists of the supervisor, town clerk, and justices of the peace. This board examines all of the town accounts and certifies to such as it approves.‡

43. The Town Board of Health consists of the supervisor, assessor, and town clerk. They take precautions against the spread of contagious diseases.§

44. The Town Board of Appointment consists of the justices of the peace, the supervisor, and the town clerk. They have power to make appointments to fill vacancies in town offices. ||

COUNTIES NOT UNDER TOWN GOVERNMENT

45. The Board of County Commissioners is the county legislature (p. 124). The executive and judicial

* Rev. Stat., c. 38, § 21.

† Rev. Stat., c. 38, § 340.

‡ Rev. Stat., c. 139, § 118, etc.

§ Rev. Stat., c. 139, § 127.

|| Rev. Stat., c. 139, § 97.

officers are the same as in counties under town government.

Counties not under town government are divided into election precincts by the County Board.*

The County Board appoints a county assessor, and he appoints deputies to aid him.†

Justices of the peace and constables are elected in each election precinct, in all respects as is provided in the case of towns. The election is on the Tuesday after the first Monday in November, in the year following the election of the governor.‡

Of the 102 counties in Illinois, all but nineteen are under town government at the present time (1899). The nineteen are: Alexander, Calhoun, Cass, Edwards, Hardin, Henderson, Johnson, Massac, Menard, Monroe, Morgan, Perry, Pope, Pulaski, Randolph, Scott, Union, Wabash, Williamson.

A glance at the map will show that the most of these are in the southern part of the State. The first American settlers of Illinois came into the southern counties, largely from Kentucky and Virginia. They brought with them Southern ideas of local government, one of which was the county commissioner plan of governing counties. The township and town meeting originated in New England, and these ideas were brought by Eastern settlers into the northern part of the State. From this portion the system, first permitted by the Constitution of 1848, has spread until now it includes eighty-three counties.

* Rev. Stat., c. 46, §§ 29, 30. † Rev. Stat., c. 120, § 72.

‡ Rev. Stat., c. 79, § 1.

CHAPTER X

LOCAL GOVERNMENT—MUNICIPALITIES

CITIES AND VILLAGES

1. The plan of local government for counties and towns is adapted to people living not very close together in a rather large area of country. When homes are more crowded, however, so that quite a number of people are living in a rather small area, a different plan is desirable. The conditions of life are different. There is more danger of fire, and disease, and thieves; the streets need to be better paved; there has to be a better system of getting rid of garbage; drainage is more difficult; schools are more largely attended and usually demand higher grades of work. For these reasons the laws provide a special system of local government for cities and villages.

The only difference between a city and a village is in the number of people. A small city is not very different from a large village. But a large city and a small village differ in their needs even more than the village does from a farming community. For this reason the law recognizes different plans for the government of a city from that for the government of a village.

CITY GOVERNMENT

2. General Law—The government of cities in Illinois must be provided by a general law (Art. XI.,

§ 1).^{*} Thus special charters are forbidden. There are still in force some provisions of special charters granted before the Constitution of 1870 was adopted. But since 1870 no such charters have been possible.

The general law provides for a government, like that of the State, of counties, and of towns, which shall have the three branches—legislative, executive, and judicial.

3. City Elections—City elections are held on the third Tuesday in April; cities, however, which include a town or towns within their limits, hold their election on the first Tuesday in April. This is the case in Chicago.[†]

THE CITY LEGISLATURE

4. The Common Council is the city legislature. The members of the Common Council are called *aldermen*. The city is divided into *wards*, as the State is into counties—excepting that the wards practically do not govern themselves. The number of wards is one-half the number of aldermen to which the city is entitled. A city may have not less than six or more than seventy aldermen, depending on the population.[‡]

Each ward elects two aldermen for a term of two years—one being elected each year. Thus the Common Council, like the State Senate, is a continuous body. Cities may, if they please, adopt a plan of minority representation in the Common Council.

The election is held on the third Tuesday in April—excepting in cities which include a town within their

^{*} Rev. Stat., c. 24.

[†] Rev. Stat., c. 24, § 48.

[‡] Rev. Stat., § 30.

limits, in which the election is on the first Tuesday in April.

The mayor (p. 140) presides over the Council,* and has the veto power, like that of the governor. He votes only in case of a tie, like the lieutenant-governor.

The laws passed by the Common Council are called *ordinances*.†

5. Powers and Duties—The powers of the Common Council are very numerous.‡ They may, as a whole, be grouped under the following heads: *Finance*, including the laying of taxes for city purposes and making appropriations from the city treasury; *streets*, including their paving and drainage, keeping them clean, and regulating the whole matter of transit, especially as relates to street railroads; *public health and comfort*, including the supply of the city with water and light, provision for sewers and the disposal of garbage, sanitary regulations and public recreation; *the regulation of commerce*, for the prevention of frauds and public inconvenience; *education*, by providing for free schools in all proper parts of the city; *public safety*, by providing for the protection of the persons and property of citizens, especially through the police and fire departments.

The various matters included under these heads are administered by such executive officers as may be entrusted with them by the law of the State or by ordinance of the Common Council.

* Rev. Stat., c. 24, §§ 53, 54.

† Rev. Stat., § 46.

‡ Rev. Stat., § 62.

THE CITY EXECUTIVE

6. The State law provides for the election of the following city executive officers: A mayor, city clerk, city attorney, and city treasurer. They are chosen at the city election in April of the odd numbered years. Their term is two years.*

The law authorizes the Common Council to provide by a two-thirds vote for such other officers † as may be deemed expedient, and leaves to the discretion of the Council whether such officers shall be elected by the people or appointed by the mayor with the approval of the Council.

7. The Mayor is the chief executive officer of the city.‡ He must be a citizen of the United States, and a voter and resident in the city. He is the conservator of the peace of the city, and as such has the powers of a sheriff. He may remove from office, under certain restrictions, any officer appointed by him. Like the governor, he recommends measures of legislation, in his annual message, or special messages, to the Common Council. He performs such other duties as may be required by law or ordinance, and he takes care that the laws and ordinances are faithfully executed.

If in case of vacancy in the office of mayor, it is filled by a special election if the vacancy is a full year or over—otherwise the Common Council elects one of its members as acting mayor for the unexpired term.

* Rev. Stat., c. 24, §§ 72, 48, 49.

† Rev. Stat., c. 24, § 73.

‡ Rev. Stat., c. 24, § 14, etc.

In case of the temporary absence from the city, or disability, of the mayor, the Common Council elects one of its members as mayor *pro tempore*.

8. The City Clerk is clerk of the Common Council and keeps its official records and papers.

9. The City Attorney is in charge of the city law business—corresponding to the attorney-general for the State and to the State's attorney for counties.

10. The City Treasurer keeps the city funds and pays them out as directed by law. He makes monthly statements and an annual report of the state of the treasury.

Besides the above statutory officers, cities establish such others as they may need under the power granted to the Common Council.

11. Executive Departments in Chicago—In accordance with this power, the city of Chicago has organized a number of executive departments, entrusting to each the administration of a particular branch of the city business. As a rule the head of each department is appointed by the mayor, with the consent of the Common Council; the tenure of office is two years—and heads of departments appoint their subordinates with the approval of the mayor. The departments are those of finance, public works, buildings, law, health, police, and fire, besides several offices of inspection. Education is under the charge of a separate board, in accordance with the State laws.

12. The Department of Finance includes the comptroller, the treasurer, the collector, and their clerks and assistants. The treasurer is elected by the people (p. 140). The comptroller is head of the department, both comptroller and collector being

appointed by the mayor, with the approval of the Common Council.*

13. The Comptroller—The duty of the *comptroller* is to exercise a general supervision over the financial affairs of the city. He is the fiscal agent of the city, and as such has charge of all valuable papers, like deeds, mortgages, and contracts, which are the property of the city. He audits the accounts of the city, and in general is responsible for fiscal administration. He appoints his own clerks with the approval of the mayor.†

14. The City Treasurer is a statutory officer, and his duties have been mentioned (p. 141). He appoints and dismisses his clerks and assistants.‡

15. The City Collector takes charge of the collection of special assessments (p. 143) and has such other duties as may be assigned to him by law or ordinance. He makes daily payments to the treasurer, and files a monthly statement with the comptroller. The collector is appointed by the mayor, with the approval of the city council.§

16. The Department of Public Works has charge of the engineering and similar work belonging to the city.|| The head of the department is the commissioner of public works. The other officers are the city engineer, the superintendent of streets, the superintendent of water, the superintendent of sewerage, the superintendent of special assessments, and the superintendent of maps. The names of these officers perhaps sufficiently define their duties.

* Laws and Ordinances of Chicago, § 1001 (see Appendix, p. 260.)

† L. & O., § 1010, etc.

§ L. & O., § 1037.

‡ L. & O., § 1030.

|| L. & O., §§ 1041, 1047.

“Special assessments” are assessments for taxes levied on particular pieces of real estate to pay for public improvements, such as street paving, from which the property taxed derives special benefit.

17. Department of Buildings—The *commissioner of buildings** has charge of the inspection of all buildings erected within the city limits, to insure safe construction. He also inspects elevators. He has several inspectors and assistants to aid him in this work.

The city ordinances make certain regulations with regard to the construction of buildings—such as requiring suitable strength, forbidding wooden structures within certain limits, requiring fire escapes on hotels and similar buildings, requiring elevators to have proper construction and appliances for safety. The commissioner looks after these requirements. No one can put up a building or operate an elevator in a public building in the city without a permit from the department.

18. The Department of Law—The *department of law*† includes the corporation counsel, who is the head of the department, the city attorney, and the prosecuting attorney. The city attorney is elected by the people (p. 140). The prosecuting attorney is appointed by the mayor, on recommendation of the corporation counsel and the city attorney, with the approval of the city council. The corporation counsel has general charge of all law business in which the city is interested. The city attorney drafts ordinances at the request of the city council, or of any of its committees, and draws up legal papers, like deeds and

* L. & O., § 1107.

† L. & O., § 1149.

contracts, when so desired by the head of any city department. The prosecuting attorney conducts all suits against violators of city ordinances.

19. The Department of Health—The head of this department is the commissioner of health.* The superintendent of police and the city physicians are *ex-officio* members of the department. The city physician is appointed by the mayor with the approval of the city council. The duty of the department is to exercise general supervision over the sanitary condition of the city.

20. The Department of Police—The department is under the control of the superintendent of police as its head.† Like other heads of departments he is appointed by the mayor with the approval of the city council. He appoints the members of the force, with the approval of the mayor.

It is the duty of the department to enforce the laws and ordinances and the orders of the mayor, to protect the rights of persons and property, to make arrest of law breakers. The police in a city have the same duties as the constable in a village or the sheriff in a county.

21. The Fire Department—The fire marshal is at the head of this department.‡ He is appointed by the mayor, with the approval of the city council. He appoints all officers and members of the department, with the approval of the mayor. He may remove any officer above the rank of captain, with the consent of the mayor. Any other officer or member of the department the marshal may remove at his own

* L. & O., § 1176.

† L. & O., § 1228.

‡ L. & O., § 1268.

pleasure. The fire marshal has absolute control of this department, and for this reason he is held strictly accountable for its discipline and efficiency. The Chicago fire department, it may be added, is admirably managed and is highly efficient.

22. Offices of Inspection—Besides the executive departments, there are several executive offices of inspection. It is their purpose to protect the people of the city against certain dangers against which it would not be easy otherwise to guard. As a rule the name of the office defines its functions.

There is an *inspector of steam boilers*,* an *inspector of fish*,† an *inspector of milk*,‡ an *inspector of gas meters*, an *inspector of oils*,§ and an *inspector of weights and measures*.||

23. The Park System—Parks are intended to be public pleasure grounds. Cities usually have something of the kind, and large cities have them on an extensive scale.¶

The Illinois law provides for the care of parks by commissions which are distinct from the city corporation. Such commissions, though local in their purposes, are appointed by the governor of the State or elected by the people of the park district. The Chicago parks consist of three systems—the north parks, the west parks, and the south parks.

24. Drainage Districts—One of the greatest engineering works of the State is the Chicago drainage canal. This is intended to connect the south branch of the Chicago River with the Illinois, thus reversing

* L. & O., § 1309.

† L. & O., § 1326.

‡ L. & O., § 1347.

§ L. & O., § 1372.

|| L. & O., § 1384.

¶ Rev. Stat., c. 105.

the current of the former river and turning the water of Lake Michigan towards the Mississippi. The purpose is to divert the sewage of the city of Chicago from the lake, whose waters form the supply of the city. The current of the canal will carry off the drainage of Chicago, and it is not impossible that some day there may be a ship canal as well.

The management of this great enterprise is in the hands of a board of nine commissioners, elected by the people of the Chicago sanitary district. The term of office is five years, and the election is on the plan of minority representation.*

VILLAGE GOVERNMENT

25. A village differs from a city usually in having a smaller number of inhabitants and a smaller area. Yet a large village may, under the laws of this State, be more populous than some small cities. In such cases it is at the option of the people whether they shall have village or city government.

26. Organization—Any incorporated town or any city may become a village if the people so decide at an election held for that purpose.† A new village may be created from any contiguous territory, not exceeding two square miles in area, which has a population of at least 300, and which is not included within any other village, incorporated town, or city, if the people concerned so vote at an election held for that purpose.‡

27. Form of Government—The government of a village differs from that of a city merely in being more

* Rev. Stat., c. 24, § 345.

† Rev. Stat., c. 24, § 178.

‡ *Ibid.*, § 182.

simple. Of course for that reason it is less expensive. There are no wards in a village.

28. President—In place of a mayor, the chief executive officer is a *president*.* He is elected by the people at the spring village election, for a term of one year. He has substantially the same powers as the mayor of a city.

29. Board of Trustees—In place of a city council, the village legislature is a *Board of Trustees*.† There are six trustees, three of whom are chosen each spring for a term of two years. Thus the board is a continuous body. The village president is chairman of the Board of Trustees. The clerk of the board is chosen annually by the people, at the spring election. The Board of Trustees has substantially the same powers as a city council.

30. Administrative Offices—The president and Board of Trustees may appoint a treasurer, a constable, and one or more street commissioners, and such other officers as may be necessary.‡ The constable has the same powers as town constables (p. 135), and all these officers have their powers, duties, and compensation fixed by the president and the Board of Trustees.

The annual village election is held on the third Tuesday in April, unless the territorial limits of the village coincide with those of a town, in which case the village election is held at the same time as the town election—on the first Tuesday in April.§

31. Village Court—At the village election a police magistrate may be chosen, who holds office for a term

* Rev. Stat., c. 24, § 193b.

† *Ibid.*, §§ 185-7.

‡ *Ibid.*, §§ 188, 189.

§ *Ibid.*, § 190.

of four years, and has the same jurisdiction as other justices of the peace.*

CIVIL SERVICE REFORM

32. Both in cities and counties there are many public officials who are not elected by the people, but are appointed by heads of departments. There are policemen, firemen, clerks, book-keepers, deputy sheriffs, and many more.

33. The "Spoils" System—It has come to be the custom when an election has changed those entrusted with appointments for them in turn to dismiss the former officials and appoint new ones. These appointments are very often made as rewards for some kind of political service.

34. Disadvantages—This system has serious disadvantages. Officials whose experience has made them valuable are liable at any time to be dismissed in favor of untried men. The reason for appointment being primarily political work, it may easily happen that incompetent persons are selected for the public service. Continuance in office depending rather on political activity than on the faithful performance of official duty, it is often the case that such duties are neglected in favor of the interests of particular politicians or political parties.

In order to remedy these evils, laws have been made which permit cities to adopt a different system.

35. City Civil Service Commission—If the voters of any city vote in favor of civil service reform, it

* Rev. Stat., c. 24, § 192.

becomes the duty of the mayor to appoint three civil service commissioners. Their term is three years, one being appointed annually.*

36. Appointments—Under rules adopted by the commission, applicants for office in the city departments are examined as to their qualifications and graded according to the result. When the head of a department needs a new appointee application is made to the commission. The name of the candidate standing highest on the list is furnished, and such person is appointed on probation. If the work is satisfactory the temporary appointment is made permanent.

37. Promotions—The commission is also authorized to make rules regulating promotions—which also under this system are to depend strictly upon proved merit instead of political influence.

38. The Classified Service—The “classified service,” as it is called, does not include all the city employees, but does include a large number of them.

This system has been adopted by the city of Chicago.

A similar system has also been provided for Cook County.†

* Rev. Stat., c. 24, §§ 446-484.

† Rev. Stat., c. 34, § 62.

CHAPTER XI

PUBLIC REVENUE

THE NEED OF REVENUE

1. Government cannot be carried on without public funds to pay for its cost. Officers who give their whole time, or the main part of their time, to public duties have to be paid for their services. It is only certain boards (*e.g.*, those of the State University, the State Normal Schools, the insane asylums, and boards of education), the members of which are able to carry on their private business without material interruption, that receive no salaries. School buildings, sewers, street paving, and other public works are, of course, necessarily expensive.

TAXES

2. **A Tax**—As all the people of the State are benefited by the maintenance of law and order, by free schools, and other services rendered by the government, it is only proper that all the people should contribute towards the public funds. Such contribution is required by law, and is called a *tax*.

3. **Poll Taxes**—In some States a small tax is imposed on everybody, or at least on every adult male person. This is called a *poll tax*. There is no poll tax in Illinois.

4. Property Taxes—The objection to a poll tax is that everybody who pays it, whether rich or poor, pays the same amount. It seems only reasonable that those who have large property interests to guard should pay taxes in proportion. A tax levied on property is called a *property tax*, and is the only kind in Illinois. The Constitution requires that “Every person and corporation shall pay a tax in proportion to the value of his, her, or its property” (Art. IX., § 1).

5. Real and Personal Property—Property is of two kinds—real and personal. Real property (or real estate) consists of *immovables*—land and buildings. Personal property consists of *movables*—like money, horses, and household furniture.

ASSESSMENT AND COLLECTION OF TAXES

6. Assessment—If people are to pay taxes in proportion to the value of their property, it is necessary that there should be some uniform process of determining what property each person has, and what is its value. This process is called *assessment*. *Assessors* are officers, appointed or elected, as may be required by law, whose duty is to assess the value of all property within their respective districts, and to report the same for record. The proper legislative authority—the State Legislature, the local legislative board, or the people in town meeting—then decides the amount of tax to be raised in a given year. Knowing the total amount of property to be assessed, and the total tax to be levied, it is a mere matter of arithmetic to find the rate per cent. Then the tax due from each property owner is readily computed.

7. Special Taxes—Besides this form of property tax, there are also taxes on certain kinds of business and on inheritances (Art. IX., § 1).*

8. Special Assessments—Some kinds of improvements—as paving a city street, for example—are of more immediate benefit to particular taxpayers than to the community at large. Accordingly the law allows in such cases that the expense be met by a *special assessment* on those directly benefited (Art. IX., § 9).†

9. Sources of Taxation—The total tax levied in any one year consists of several parts—the State tax, the county tax, the city or village tax, the town tax (if any), besides school district taxes, park taxes, special assessments, and any other which may be authorized by law. Any individual taxpayer, however, pays but one sum, which is suitably distributed among these objects by the public officials.

10. Collection—When each person's tax has been duly determined, it is then collected by the tax collectors and paid over to the various public treasurers.

11. Assessors—In counties not under township organization, and in counties under township organization with a population of 125,000 or less, the county treasurer is the assessor. He has such deputy assessors as he may need.

In counties with a population of 125,000 or more a *Board of Assessors* is elected by the people. There are five members, chosen for a term of six years, so arranged as to be a continuous body.

* Rev. Stat., c. 120, § 307, etc.

† Rev. Stat., c. 24, Art. IX.

12. Board of Review—In each county there is also a *Board of Review*, which has power to revise the action of the assessors.

In counties under township organization with a population under 125,000 the Board of Review consists of the county clerk, the chairman of the County Board, and a citizen appointed by the county judge.

In counties not under township organization the Board of County Commissioners forms the Board of Review.

In counties with a population of 125,000 or more the people elect a Board of Review, consisting of three persons. The term of office is six years, and one of the three is elected each two years.*

The *State Board of Equalization* has already been described (p. 112).

LIMITATIONS ON THE TAXING POWER

13. The taxing power of the various legislative bodies throughout the State is limited by law.

14. Property Exempt—The Constitution (Art. IX., § 3) provides that certain classes of property shall not be taxed at all.† Such property is all that belonging to the State, to counties or to any municipal corporations, and any that is used exclusively for public benefit rather than for private gain.

15. County Limitations—The Constitution (Art. IX., § 8) forbids county authorities to levy a tax at a rate exceeding seventy-five cents on \$100 of assessed valuation, unless specially authorized by vote of the people of the county.

* Law of Feb. 25, 1898.

† See also Rev. Stat., c. 120, § 2.

16. Municipal Limitations—The Constitution (Art. IX., § 9) requires that municipal corporations in levying taxes (excepting in case of special assessments) shall make such taxes uniform in their application to persons and property.

The statutes * forbid cities or villages to levy a tax at a rate exceeding two per cent. on the assessed valuation of taxable property.

PUBLIC DEBTS

17. Borrowing Money — It sometimes happens that the State or municipal corporations are obliged to make improvements which are so expensive that should they be paid immediately from the proceeds of taxation an excessive burden would be laid on the taxpayers. Under these circumstances the money needed may be borrowed.

18. Limitations on Borrowing Power—But to protect the people against extravagance or corruption on the part of their representatives, the Constitution and statutes fix a limit to the borrowing power.

The General Assembly may not incur indebtedness (except in case of insurrection or war) to exceed \$250,000, unless specially authorized by a vote of the people of the State (Art. IV., § 18).

No county, city, township, school district, or other municipal corporation may incur indebtedness to exceed five per cent. on the assessed valuation of taxable property (Art. IX., § 12).

* Rev. Stat., c. 24, § 111.

CHAPTER XII

PUBLIC EDUCATION

FREE SCHOOLS

1. The Constitution requires the General Assembly to “provide a thorough and efficient system of schools, whereby all children of this State may receive free a good common school education” (Art. VIII., § 1).

This was merely carrying out the intention of Congress at the very beginning of the plan of government for the old Northwest Territory. The Ordinance of 1787 laid the foundation for free schools (p. 91), the enabling act of Congress granted land for the encouragement of education, and the Constitution and laws of the State establish the system.

2. A Generous and Complete Educational Scheme—The State of Illinois, it is seen, provides free education through the common schools, which are scattered throughout the State; through high schools, which are everywhere within reach; and through the State university.* Thus almost any one who desires education, whether he lives in city or country, can get it free of cost, and to almost any extent.

The reason for this generous provision is that in a

* The university tuition is very low.

republic every citizen should be intelligent in order to be a good citizen, and that every one ought to be able to make the most of himself.

3. Compulsory Education—The law requires that all children between the ages of seven and fourteen shall attend a day school (public or private) at least sixteen weeks each year. At least twelve of these weeks' attendance shall be consecutive.* Proper exceptions are made for inability to attend by reason of physical or mental defects.

4. The Laws—In some cities schools were established under special laws before the Constitution of 1870 was adopted, and these laws are still in force. Aside from these places, the public schools are under a general law,† which marks out a plan for schools, creates authorities for their control, and provides the means of financial support.

Reference has already been made to the State superintendent of public instruction and to the county superintendents (pp. 186, 128).

5. School Townships—For common school purposes the congressional townships (pp. 30, 31) are made school townships.‡ Fractional townships are attached to full ones near at hand. It will be remembered that these townships do not necessarily coincide with the towns in the counties under town (wrongly called "township") government. Even if a town does coincide in area with a school township, the school officers are in no sense *town* officers.

6. Township Board of Trustees—The school af-

* Rev. Stat., c. 122, § 313.

† Rev. Stat., c. 122.

‡ Rev. Stat., c. 122, § 30.

fairs of each township are under the control of a Board of Trustees.* The board consists of three members, one of whom is elected by the people of the township each year, for a term of three years. Thus the board is a continuous body. The election is held on the second Saturday in April. In school townships whose boundaries coincide with those of a town the school trustees are elected on the same day as the town officers (the first Tuesday in April). Any resident of the district who is twenty-one years old is eligible for election. But no two trustees shall reside, when elected, in the same district, and no one can be trustee and director at the same time.

7. Powers and Duties of the Board—The township Board of Trustees chooses one of its own members as president, and some other person, not a member, as treasurer. It may divide the township into school districts for the convenience of those who attend.† The board has charge of the school funds of the township, and apportions them semi-annually among the districts according to the number of children under twenty-one years of age in each;‡ holds in its name all school property,§ has the charge of the same, and may sell it under certain conditions;|| has charge of the township school lands; may establish a township high school if the people of the township vote in favor of such proposition¶ (at a special election held for that purpose), and makes regular reports to the county superintendent.

* Rev. Stat., c. 122, §§ 32-36.

† Rev. Stat., c. 122, § 55.

‡ Rev. Stat., c. 122, § 244.

§ Rev. Stat., c. 122, § 51.

|| Rev. Stat., c. 122, §§ 59-66.

¶ Rev. Stat., c. 122, § 67.

8. District Boards of Directors—Each school district, provided it has a population of less than one thousand, and is not governed by a special act (p. 138), has a Board of Directors,* which is charged with the management of the district school. Each year, on the third Saturday in April, the people of the district elect one director for a term of three years. Thus the board consists of three directors, and is a continuous body. Any resident of the district who is twenty-one years old, can read and write the English language, and is not a township school trustee, is eligible for election.

9. Powers and Duties of Board of Directors—The Board of Directors effects its own organization, appointing one of its own members as president and another as clerk.

The board must establish and keep in operation for at least 110 days of actual teaching a free school or schools sufficient for the accommodation of all children in the district between the ages of six and twenty-one. To this end, it is the duty of the board to appoint teachers, to fix their salaries, and issue to them warrants on the township treasurer each month; to prescribe what branches of study shall be taught, and what text-books and apparatus shall be used; to provide sufficient funds for the needs of the schools, in addition to the funds apportioned by the township Board of Trustees, by levying a district tax, and to make regular reports. Financial reports are made to the public at the annual election and filed with the treasurer; educational reports are made to the county

* Rev. Stat., c. 122, §§ 121-125.

superintendent. The board may buy land for a school-house site and erect a suitable building thereon if the people of the district so vote at an election held for that purpose. The board has charge of all school-houses in the district, must keep them in good order, and may allow them to be used for other than school purposes. It is the duty of the board to enforce good conduct among both teachers and pupils, and accordingly power is granted to dismiss teachers and to expel pupils.*

10. Boards of Education—Cities and villages, excepting such as are under special laws (pp. 137-8), are subject to the general provisions of the school law as above detailed. However, there are some additional provisions for their benefit.

In districts with a population over 1,000 and less than 100,000 a Board of Education † takes the place of the district Board of Directors. The Board of Education consists of a president, six members, and an additional member for each ten thousand inhabitants in excess of 1,000. However, the total number in the board must not exceed fifteen. One-third of the members are elected each year, on the third Saturday of April, for a term of three years. Thus the Board of Education, like the township Board of Trustees and the district Board of Directors, is a continuous body.

The powers and duties of the Board of Education are the same as those of a district Board of Directors, with some additions.

The board is to establish and support free schools for not less than six or more than ten months. In making

* Rev. Stat., c. 122, § 135-156.

† Rev. Stat., c. 122, § 157.

the tax levy, it is not lawful to provide for maintaining schools for more than ten months unless on the petition of a majority of the voters of the district. The board may employ a superintendent of schools, may examine teachers, and must publish an annual report showing the state of the schools and their cost.

11. The City Schools of Chicago—The State school law provides that in cities with a population of 100,000 or more (Chicago is the only such city) the schools shall be under the control of a *Board of Education*,* appointed by the mayor, with the approval of the city council. There are twenty-one members, seven being appointed annually for a term of three years. Thus the board is a continuous body. The term of office begins on July 1st. The board elects its own president and secretary.

12. Powers and Duties of the Board—The Board of Education is entrusted with the management of school property and with the organization and control of the public schools. The city treasurer is the treasurer of the board.

To erect school buildings, to buy land as their sites, to borrow money for school purposes on the credit of the city, the board requires the consent of the city council.†

The remaining powers of the board are independent of control by other parts of the city government. The board may furnish and care for the buildings, hire buildings or rooms if those owned by the city are inadequate, employ teachers and fix their salaries, decide on text-books and courses of study, fix the boundaries of school districts, maintain discipline among both

* Rev. Stat., c. 122, § 173.

† Rev. Stat., c. 122, § 177.

teachers and scholars, and manage the school property and funds from which income is received.*

It is the duty of the board to use their powers for the maintenance of schools, and so as to secure the highest efficiency of instruction.†

13. Professional and Higher Education—The State normal schools and the State university have already been mentioned. They are an essential part of the system of public instruction.

SCHOOL FUNDS

14. The money expended annually on the public schools comes from two sources—the State and the locality.

15. State Tax—The State levies an annual tax for the benefit of common schools.‡ The proceeds of this tax are divided among the counties in proportion to the number of children under twenty-one years of age. This tax is the largest part of the school fund, amounting of late to the sum of a million dollars a year.§

16. State School Fund Proper—A part of the proceeds of the sale of lands belonging to the United States which were within the State of Illinois, and which were sold after January 1, 1819, was given by the United States to the State.¶ Three per cent. of the net proceeds of such sales were to be used by the State for the encouragement of learning. Of this

* Rev. Stat., c. 122, § 178.

† Rev. Stat., c. 122, § 179.

‡ Rev. Stat., c. 122, § 232.

§ Laws of 1897, p. 287.

¶ Act of Congress, April 18, 1818, Section 6.

fund one-sixth was to be reserved for a college or university. The part reserved for common schools is held by the State, and interest at the rate of six per cent. is paid into the school fund, and is divided among the counties in the same way as the State tax.

17. United States Deposit Fund—In 1835 the United States was out of debt, and there was a surplus in the treasury which came from the sale of lands. This surplus was divided among the States—not as a gift outright, but by way of a deposit. As a matter of fact, however, the deposit has never been called in, and probably never will be. The share of Illinois was \$477,919.24. A part of this sum was set aside for education, and on this amount thus set aside the State pays into the school fund annual interest at the rate of six per cent. This also is divided among the counties.

18. Method of Distribution—Thus it is seen that the entire sum derived from the tax and from the above mentioned interest moneys is divided among the counties of the State in proportion to the number of children under twenty-one years of age. The money is not actually gathered into the treasury and then sent out to the various counties. To save the necessity of this awkward process, the State auditor sends to each county superintendent a warrant on the county collector for the amount due to that county. The collector cashes the warrants, and turns them in to the State treasurer in lieu of so much money.*

19. Fines—It is also provided that all fines, penalties, and forfeitures imposed by the courts of law,

* Rev. Stat., c. 122, §§ 234-5.

excepting such as are imposed in incorporated towns or cities for violation of the local ordinances, shall also be paid over to the county superintendent, as an addition to the common school fund.*

20. Apportionment—The county superintendent apportions the school money received from all sources among the respective townships, and pays over the proper shares to the township treasurers.†

21. Local Taxes—Local taxes for school purposes, as specified by law, may be levied by district Boards of Directors, or by the proper authorities of cities or villages.‡ The total amount thus levied must not exceed two per cent. of the assessed valuation for educational purposes, and three per cent. for building purposes. The proceeds of these taxes are paid by the collectors to the township treasurers. In cities these funds are paid over to the city treasurer, who acts as treasurer of the Board of Education.§

22. Township Lands—Each township was entitled by act of Congress to one section (16) of land, which was reserved for school purposes (p. 33). This land has partly been sold, the remainder being rented. The interest on the amount received for sales, and the rentals for the rest, are paid into the treasury, and there held subject to the order of the school board.

23. Incidentals—There are various incidental sources of income—gifts by individuals for specific purposes, tuition paid by non-resident pupils, and some others.

* Rev. Stat., c. 122, § 269.

† Rev. Stat., c. 122, § 26.

‡ Rev. Stat., c. 122, § 202.

§ Rev. Stat., c. 122, § 182.

24. Chicago School Receipts, 1897-8—The receipts of the Chicago School Board from these various sources for the school year ending June 30, 1898, were as follows: From the State, \$266,846.21; from city tax, \$6,640,692.49; from interest and rentals, \$482,383.18; from incidental sources, \$8,290.08. This was a total of \$7,398,211.96.*

25. Borrowing Money—For building purposes, the boards of school directors may, when authorized by a special vote of the people, borrow money and issue bonds therefor.† The sum borrowed in any one year must not exceed five per cent. (including existing indebtedness) of the assessed valuation of property in the district. In cities with a population over 100,000, such bonds can be issued only with the consent of the city council.‡

TEACHERS

26. Qualifications—The State law requires certain definite qualifications for teachers.§ The State superintendent and county superintendents are authorized to grant certificates to those who are shown to possess such qualifications. The State certificate is of two grades—the first being valid for life, and the second for five years. County certificates are also of two grades—for two years and one year, respectively. Each is granted on the basis of a public examination. The qualifications for these certificates are, good moral character, a minimum age (eighteen for males,

* Chicago School Report, p. 156.

† Rev. Stat., c. 122, § 177.

‡ Rev. Stat., c. 122, § 215.

§ Rev. Stat., c. 122, §§ 185-8.

seventeen for females), and certain educational acquirements. For State certificates the State superintendent, together with the "principals of the State universities," fixes the educational standards and controls the examinations. The county superintendent conducts the examinations for county certificates. The educational requirement for a certificate of the second grade is that the person to whom it is issued "is qualified to teach orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, and the history of the United States." For a first-grade county certificate the examination covers the foregoing branches of knowledge, and in addition the elements of the natural sciences, physiology, and the laws of health.

Boards of education in cities are permitted to examine candidates for teachers' positions and to issue certificates accordingly—the board prescribing the qualifications.*

* Rev. Stat., c. 122, §§ 166, 179.

CHAPTER XIII

CONSTITUTIONAL RESTRICTIONS ON THE POWERS OF GOVERNMENT

1. Limitations of Government—One important purpose of a constitution is to construct a frame of government, and to give to each part its own powers and duties. But it is quite as necessary to specify also the limitations within which the government must restrain its action. History plainly teaches that men put in positions of political responsibility are very apt to be guided by selfish and grasping motives. Then, too, unless those who are entrusted with different branches of government know the limits of their own powers, even with the best intentions they are likely to encroach on the powers which belong to others.

For these reasons, in drawing American constitutions great pains are taken to enumerate things which must *not* be done. These are the *restrictions*, or *prohibitions*, on the powers of government.

RESTRICTIONS IN THE FEDERAL CONSTITUTION ON THE POWERS OF STATES

2. Federal Republic—The United States is a federal republic. Therefore every particle of its soil which falls within any of the States is governed by

two constitutions and by two sets of laws—Federal and State.

In dividing powers between the Federal government and the States, it has been so arranged that there are some things which may be done by the former but not by the latter, some which may be done by the latter but not by the former, some which may be done by both, and some which may be done by neither.

Thus the Federal government has the power to make treaties and to coin money, both of which powers are forbidden to the States. The Federal Constitution is silent as to education ; therefore Congress may not, and the States may, organize schools within the several States. This depends on the principle that the Federal government has only such powers as are granted, while the States may do whatever is not forbidden in the Federal Constitution.

The Federal government may lay a tax on land. The States are not forbidden to do the same thing, and there is nothing in the nature of a land tax which would prevent its being laid by both authorities. Hence this power may be exercised by both.

Both the United States (*i.e.*, the Federal government) and the States are forbidden to grant a title of nobility.

3. The Prohibitions on the States in the Federal Constitution are found mainly in Article I., Section 10 ; Article IV., Sections 1 and 2 ; Article VI., Section 2 ; Amendment XIII., Amendment XIV., and Amendment XV. There are also some implied prohibitions in other parts of the Constitution.

These prohibitions on States, it must be noticed, cover the whole field of political action. They relate to the

State constitutions as well as to statutes enacted by the State legislatures. They include the acts of the Executive and the acts of the courts.

4. Federal Law Supreme—The Federal Constitution, laws, and treaties are the supreme law of the land, “anything in the constitution or laws of any State to the contrary notwithstanding.” *

This is a prohibition on the enactment of any State law, whether in the State constitution or statutes, which conflicts with Federal law. If a State does make such enactment, and under it a suit reaches a Federal court, that court will decide the enactment in question to be null and void.

5. Some “Essential Attributes of Sovereignty” Forbidden—The States are forbidden to do certain things which are held to belong to what are known as “the essential attributes of sovereignty”—*i.e.*, they are things which are customarily done only by the governments of independent nations.†

These are (1) the making of treaties, (2) engaging in war, (3) granting authority to private armed ships to carry on war, (4) keeping of military or naval forces in time of peace, (5) coining money, (6) issuing paper notes to pass as money, (7) making anything but gold and silver coin a legal tender for the payment of debts, (8) passing laws which shall take the place of a judicial trial and conviction for crime, or which shall put persons accused of crime in a worse position legally than was the case when the crime was committed, (9) granting titles of nobility, (10) laying duties on imports and exports, (11) laying duties of tonnage.

* U. S. Const., Art. VI., § 2.

† U. S. Const., Art. I., § 10.

Some of these are forbidden mainly because they are thought undesirable altogether, and are forbidden to the Federal government as well. Such are those numbered (8), (9), and the latter part of (10).

Others are forbidden unless Congress grants consent. These are (2), (4), (10), (11). Under certain specified conditions States may levy duties and carry on war.

6. Interstate Comity—States are forbidden to do some things which relate to what is called “interstate comity.” * No State may refuse to give full credit “to the public acts, records, and judicial proceedings” of any other State. No State may refuse to the citizens of any other State the same privileges and immunities possessed by its own citizens—*e.g.*, if a citizen of Ohio is temporarily resident in Illinois, he is entitled to exactly the same legal rights, under the same limitations, as a citizen of Illinois. States are forbidden to harbor criminals who have fled from other States. States were also forbidden to harbor runaway slaves from other States, but since the adoption of the thirteenth amendment this prohibition is obsolete.

7. Slavery Prohibited—No State may establish or maintain by law the condition of slavery.†

Slavery is the legal condition by which the services of one human being belong permanently as property to another. Slaves were at one time held in all the original thirteen States. In the States north of Maryland slavery was abolished voluntarily at different times—the last being New York, in 1827. Fifteen States maintained slavery until it was abolished by the Civil War and the adoption of the thirteenth amendment

* U. S. Const., Art. IV., §§ 1, 2. † U. S. Const., Amdt. XIII.

(1865). These were the States south of Pennsylvania, the Ohio River, and Iowa. In the old Northwest Territory slavery was forbidden by the Ordinance of 1787. Repeated efforts were made, however, to induce Congress to consent to the existence of slavery in Illinois while a Territory, but without success. After Illinois became a State, a determined effort was made to secure an amendment to the Constitution legalizing slavery, but by a large majority the people defeated the plan (1824).

8. Civil Rights—States are forbidden to enact or to enforce any law which abridges the privileges or immunities of citizens of the United States.*

The Constitution does not specify these privileges and immunities. Whatever they are they are exempt from interference by the States, whether in their constitutions and laws or in any acts of the administrative departments or courts.

Some think that these privileges are those included in the first eight amendments to the Federal Constitution. That, however, is not the view of the Supreme Court of the United States, and therefore, unless that court should take a different view of the case, it cannot be held to be the law.

9. Due Process of Law—The States are forbidden to deprive any person of life, liberty, or property, without due process of law. This does not mean any particular process, but merely such law as is general and impartial in its character, and such as at the same time violates no provision of the Federal or State Constitution. Law and not caprice should be the method.

* U. S. Const., Amdt. XIV.

Law is a body of general rules ; caprice relates to an individual case only.

The States are forbidden to deny to any person within their jurisdiction the equal protection of the laws.

The States are forbidden to pay any debts incurred in aid of insurrection against the United States, or any claims for the emancipation of slaves.

10. Suffrage—States are forbidden to deny citizens of the United States the right to vote “on account of race, color, or previous condition of servitude.” *

Citizens may be denied the right to vote on any other ground which may please the States. Indeed qualifications of age, sex, intelligence, or property are embodied in the suffrage laws of many States. The prohibition merely relates to the particular reasons enumerated.

RESTRICTIONS MADE BY THE ILLINOIS CONSTITUTION ON THE POWERS OF THE STATE GOVERNMENT

11. Bills of Rights—The Constitution of Illinois provides for a frame of government, distributes powers among its branches, and assigns duties to them. Here it might stop, leaving the State government to exercise these powers, which in that case would be all which are not forbidden by the Federal Constitution.

But the earliest Constitutions adopted by any of the States, during the Revolutionary War, were not content with this, and specified certain things which the gov-

* U. S. Const., Amdt. XV.

ernment was forbidden to do. These things were mainly such acts as the British Constitution forbade to the king, and formed a body of rights of the people which the king could not infringe. Some other things were such as the British Parliaments had done at various times, but which in the opinion of the American colonists were things which ought not to be done. These various prohibitions formed what was known as a bill of rights—so called from a famous act of the British Parliament in 1689, which enumerated and declared rights of British subjects as against the king. It will be seen that the American bills of rights included the rights of the people as against the action of all branches of their government.

THE ILLINOIS BILL OF RIGHTS

12. As new States were admitted to the Union they all followed the example of the early States in making a bill of rights a part of the constitution. Illinois was no exception, and each of its three Constitutions has had one article devoted to this subject. The present bill of rights of Illinois is not very different from that embodied in the Constitution of 1818, and consists of essentially the same limitations on the State government as the first eight amendments to the Federal Constitution place on the Federal government (Ill. Const., Art. II.).

RESTRICTIONS ON THE POWERS OF THE STATE LEGISLATURE AND OF LOCAL GOVERNMENTS

13. But with the continued experience of the people with State governments it has become evident that

the State legislatures cannot safely be entrusted with too extensive powers, especially with such as relate to the raising and expending of revenue, and with such as include grants of special privileges to individuals or groups of individuals. Accordingly the present Constitution of Illinois contains a long list of limitations on the powers of the General Assembly. Many or all of these might, perhaps, quite as well have been embodied in the bill of rights, but it has seemed more convenient to put them in the part of the Constitution which relates to the Legislature (Art. IV.), or in that which relates to revenue (Art. IX.).

The same considerations have led to like limitations on the powers of local governments—those of counties, cities, villages, and towns (Art. IX.).

The first paragraph and the last two paragraphs of the Illinois bill of rights are merely declaratory of general principles (Ill. Const., Art. II., §§ 1, 19, 20). They, perhaps, need no comment.

14. Freedom of Religion—In some countries there is an “established” church—*i.e.*, a church which is recognized by law as a public institution and supported in whole or in part by taxes levied on all. At times laws have required people to attend services at the State church, or have forbidden them to attend any other. Even in some of the original American colonies, and to some extent in some of the States at the time of the Revolutionary War, political privileges were made dependent on certain forms of religious profession.* The power to pass such laws is forbidden to Congress by the first amendment to the Federal

* Fiske, “Critical Period,” pp. 76–87.

Constitution, and to the State Legislature by Section 3 of the Illinois bill of rights.

15. The Abuse of Liberty—Advantage has been taken of this guaranty of religious liberty to defend practices which are at variance with the general ideas of morality and social order. An example of this is found in the Mormons, who at one time had a home in Illinois (1840-46), and who insisted that polygamy was with them an article of religious faith. The constitutional limitations cannot cover such practices.

16. Freedom of Speech—It is the law in some continental nations of Europe that rulers are not to be spoken of disrespectfully, and that newspapers must not print things which are forbidden by the government. In this country, on the contrary, it is thought that public servants should be open to free criticism, and the newspapers should be allowed to publish facts and comment without stint. This right is secured against infringement by the Illinois Legislature in the fourth article of the bill of rights, as it is against act of Congress in the first amendment to the Federal Constitution.

17. Abuse of Liberty of Speech—Libel—It is not right, however, that people should be free to indulge in wanton and vicious defamation of character, especially in the public press. This is the "abuse" of liberty to which reference is made in the Illinois Constitution—"being responsible for the abuse of that liberty"—and which is implied, though not mentioned, in the Federal amendment. This abuse of freedom of speech is known in law as "libel," and is subject to a penalty.*

* Rev. Stat., c. 38, §§ 177, 178 ; c. 126, §§ 1-5.

It was an old maxim of the English law that "the greater the truth the greater the libel," because if a charge of bad conduct or character is true so much the more damage is done by its publication. This principle is not tolerated in Illinois, unless it can be shown that the publication is needless and malicious (Ill. Const., Art. II., § 4).*

18. Freedom of Assembly and Petition—The law of some lands does not allow people to meet in considerable numbers, no matter with however praiseworthy a motive, unless the police authorities consent. The Legislature is prohibited from making such gatherings illegal in Illinois, and the police may not interfere with them so long as public order is observed (Ill. Const., Art. II., § 17). But if an assemblage is riotous it may be dispersed, and those who persist in the disorder may be arrested and punished.† The same liberty is guaranteed against interference by Federal officials, and with the same limitation, in the first amendment to the Federal Constitution.

19. Due Process of Law—The government of the State is forbidden to deprive any person of life, liberty, or property "without due process of law" (Ill. Const., Art. II., § 2). This prohibition on the power of the States is found also in the fourteenth amendment to the Federal Constitution, so that the provision in the State bill of rights is hardly necessary.‡

The nature of the laws under which a person may be deprived of life, liberty, or property by the government is quite clearly marked out in further provisions of the bill of rights.

* Rev. Stat., c. 38, § 179.

† Rev. Stat., c. 38, §§ 252-255.

‡ U. S. Const., Amdt. XIV., § 1.

20. Protection of Persons Accused of Crime—

Governments, which are the agencies of the people for the general welfare, are necessarily entrusted with large powers. Especially is this true in the matter of detecting and punishing criminals (Ill. Const., Art. II., §§ 5-11, 14). But history shows plainly that persons who are given these powers cannot always be trusted to use them with entire honesty and impartiality. Under pretext of punishing crime it is quite possible for innocent persons to be put in prison, or otherwise made to suffer, merely in gratification of the private animosity of public officers, or for the purpose of securing political ends. There are some countries even to-day in which persons are liable to be arrested and kept imprisoned a long time without knowing why and without any trial. In times past trials have been conducted in private and without giving the accused any chance to defend himself properly. Penalties, too, have at times been very cruel, and out of all proportion to the offence.

To guard against these evils there has grown up in England a series of safeguards for persons accused of crime, which are embodied in the constitutions of all our States, and in that of the United States. They are some of the most essential provisions of a bill of rights.

21. Warrant for Arrest—In the first place the general rule is that no person shall be put under arrest without a *warrant* (Art. II., § 6).

A warrant is an order issued by a judge to a police officer, directing the arrest of a specified person. No warrant may be given unless there is good reason, supported by the sworn statement (*affidavit*) of some one

who is credible, for believing the person in question to be guilty of a crime.

22. Arrest without Warrant—While this is the rule, it is also a well understood rule of law that a person detected in the act of attempting or committing crime may be arrested without a warrant by any one, whether a peace officer or not, in whose presence the act was committed; and further that an officer may arrest without warrant any person whom such officer has good reason to believe guilty of a crime which has in fact been committed.*

23. Examination—Being arrested, whether with or without a warrant, the prisoner must be taken at once before a magistrate (a judge or justice of the peace), for examination.† The magistrate examines witnesses, both for and against the accused, and thus decides whether the probability of guilt is strong enough to make it worth while to hold the prisoner for further proceedings. If the decision is in the negative, the prisoner is discharged. Otherwise he may be released on bail, or committed to jail for trial (if the offence is a petty one) or for the action of the grand jury.

24. Bail—*Bail* is a sum of money guaranteed by responsible persons to be paid in case the accused person does not appear when wanted for further legal proceedings.‡ The persons who agree to give bail for the accused are called his *sureties*. Some offences are by law not bailable—especially offences the penalty of which is death, and with regard to which the evidence is very clear. In other cases the Constitution

* Rev. Stat., c. 38, § 342. † Rev. Stat., c. 38, §§ 355, 360.

‡ Rev. Stat., c. 38, § 363.

requires bail to be accepted whenever, in the opinion of the court, the sureties are sufficient (Art. II., § 7).

25. Commitment—If the accused is committed to jail, the sheriff or constable is given by the court an order called a *mittimus*,* directing that the prisoner be delivered at the county jail, and that the jailer shall receive him and hold him in custody until discharged by process of law.

26. Indictment—The legal methods of most European nations permit the examining magistrate to commit an accused person to be held for trial by the criminal court. In Great Britain and the United States, however, a further safeguard is provided. No one is permitted to be held for trial on charge of a felony (p. 134) unless he has first been *indicted* by a grand jury (Ill. Const., Art. II., § 8).

27. The Grand Jury—The grand jury consists of twenty-three persons, of whom sixteen constitute a quorum.

Grand jurors must be inhabitants, between the ages of twenty-one and sixty, not decrepit or feeble-minded, of good character and judgment, intelligent, and they must understand the English language. They must also be freeholders (owners of real estate) and householders living with their families.†

28. Exemption—Certain classes of people are exempted from all jury duty.‡ These are, the principal officers of all departments of the State government, all officers of the United States, practicing attorneys, officiating ministers of the gospel, school teachers dur-

* Rev. Stat., c. 38, §§ 363, 367.

† Rev. Stat., c. 78, §§ 2, 16, 26-30. ‡ Rev. Stat., c. 78, § 4.

ing the terms of school, practicing physicians, constant ferrymen, mayors of cities, policemen, and members of the fire department.

29. How a Jury is Obtained—It is the duty of the county board to prepare a suitable list of persons eligible for jury duty. In case of a special vote of the people in any county, however, to that effect, this duty is given to a jury commission. This body consists of three suitable persons, appointed by the judges within the county for a term of three years. One is appointed annually. From the list thus prepared, the clerk of the court requiring a grand jury draws a sufficient number of names for the purpose.

30. How the Grand Jury Meets—The grand jury meets in a private room of the court-house, and considers such cases as it thinks proper. Usually the cases are prepared and laid before the grand jury by the State's attorney. Of course all who have been held for the grand jury by examining magistrates are included. Besides these the grand jury may consider any other cases as to which they have any evidence. They hear only evidence against the accused, and decide, not whether in their opinion he is guilty or innocent, but whether the evidence against him is strong enough to warrant a trial. It is the trial which determines whether he actually is guilty. The paper which is drawn up, formally charging the accused person with a crime, is called an *indictment*. Twelve members of the jury must vote for an indictment to make it valid.

The Federal Constitution also requires indictment by a grand jury as a condition of trial in a criminal case in the Federal courts.*

* U. S. Const., Amdt. V.

Certain offences are not indictable. These are, in Illinois, minor offences, cases of impeachment, and military offences. Under the Federal Constitution non-indictable cases are the last two named.

It is also provided by the Illinois Constitution that the grand jury may be abolished by law in all cases.

31. Habeas Corpus—One of the most famous and valuable safeguards of an accused person against injustice is the *writ of habeas corpus* (Ill. Const., Art. II., § 7). A prisoner who thinks himself to be illegally held may apply to any judge for this writ, and the State Constitution ordains that the privilege of this writ shall not be suspended, unless in cases of rebellion or invasion the public safety may so require.*

The writ is merely an order from the judge, addressed to the officer who has the prisoner in custody, commanding that he produce that prisoner before the judge at a given time and show the reason for imprisonment. It is the duty of the officer to obey this writ. The judge, at the hearing, may decide that the prisoner is illegally held, and so may discharge him from custody altogether; he may decide that bail should be received, and so may discharge him on furnishing adequate sureties; or he may remand the prisoner to jail.

32. Trial—The method of criminal trials is hedged about by many restrictions in the interests of the accused (Ill. Const., Art. II., § 9).

The accused has the right to be tried in his own presence and to be represented by counsel;† to hear the nature of the accusation stated to him; to have the witnesses against him testify in his presence, and to

* Rev. Stat., c. 65.

† Rev. Stat., c. 78.

have the court compel, if need be, the attendance of witnesses for the defence.* The writ issued by the court which requires the attendance of witnesses is called *subpoena*.

The trial must be speedy, and it must be decided by an impartial jury of the county or district where the offence is alleged to have been committed.

The trial jury consists of twelve men. Their requirements are the same as those of the grand jury, excepting that they need not be freeholders or householders. The jury list is made up and the jurors are drawn, also, in the same way as in case of the grand jury. In order to find the accused guilty, the twelve jurors must vote unanimously for conviction. If the twelve vote unanimously for acquittal, the prisoner goes free, and he cannot be tried a second time for the same offence (Art. II., § 10). If the jury cannot agree, they so report, and the prisoner may be tried again by another jury.

The accused cannot be compelled to give evidence against himself (Art. II., § 10). In old times this was not the law, and accused persons were tortured in order to make them confess.

33. Penalties—Penalties must not be out of proportion to the offence. No penalty shall make the heirs of a convicted criminal incapable of inheriting his estate, and no person shall be punished by banishment from the State for an offence committed within it (Art. II., § 11).

34. No Ex Post Facto Law—The Legislature is forbidden to pass any *ex post facto* law (Ill. Const., Art. II., § 14). Such a law is one which, passed after a given

* Rev. Stat., c. 33, § 421, etc.

offence has been committed, makes the penalty heavier, or in any way increases the disadvantage of the criminal. Such law is evidently unjust. It is also forbidden to the States by the Federal Constitution.

It must be noticed that an *ex post facto* law is one referring to criminal matters only. Other retroactive legislation is not forbidden.

35. The Court—A criminal court includes a judge, who presides; a jury, which decides the case; the State's attorney, who conducts the case against the prisoner; the prisoner's attorney, who defends him; a clerk, who keeps judicial records; and certain attendants.

36. English and American Practices—The writ of habeas corpus, the grand jury, and the trial jury are all derived from England, where they originated long since.

All these pains are taken for the protection of persons accused of crime because it is thought better that many guilty men should escape than that one innocent man should be punished. Moreover, the accused person is presumed to be innocent until he is proven guilty. Therefore, when one is arrested it is not necessary for him to prove his innocence. It is, on the other hand, necessary for the State to prove his guilt, or he goes free.

37. Protection of Property against the Government—The "due process of law" by which the government may deprive persons of property is quite clearly defined and limited in the State Constitution.

The two ways in which this power is most commonly exercised are in levying taxes and in the use of the right of eminent domain.

38. Taxes—Taxes are money, or property, taken from the individual by the government for public use (p. 150).

No administrative officials are permitted to levy or collect taxes unless specifically authorized by law.

The power of the General Assembly to lay taxes is limited by the Federal Constitution.* States are forbidden to tax imports or exports without the consent of Congress. Even if Congress consents, the State can use no part of the proceeds of such tax except enough to pay the mere cost of inspecting articles of import or export. Inspection is for the purpose of insuring health or the genuineness of articles. States are also forbidden, without the consent of Congress, to lay any duty of tonnage (tax on ships).

The power of the General Assembly to lay taxes is limited by the State Constitution. Taxes are to be levied on property according to its value, and on certain occupations and legal privileges (Ill. Const., Art. IX., § 1).

39. Exemptions—Certain classes of property may be exempted from taxation (Ill. Const., Art. IX., § 2). These include all public property, “and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery, and charitable purposes.” But such exemption may be made only by general law (Ill. Const., Art. IV., § 32). The law in question is very specific and liberal.†

40. Limitations on Counties—The power of county authorities to lay taxes is limited to the rate of sev-

* U. S. Const., Art. I., Sec. 10, § 2. † Rev. Stat., c. 120, § 2.

enty-five cents on the one hundred dollars of assessed valuation, unless the people of the county by a direct vote authorize an increase (Art. IX., § 8).

41. Municipal Corporations—The State Legislature is forbidden to lay taxes for the purposes of municipal corporations, but is permitted to grant the taxing power for local purposes to the corporate authorities of such corporations (Ill. Const., Art. IX., §§ 9, 10). In granting this power, the law forbids a city or village to lay a tax, aside from what may be necessary for the payment of debts or the interest thereon, which shall exceed two per cent. on the assessed valuation of all property within the corporate limit.*

42. Public Indebtedness—It is sometimes necessary to expend for public purposes large sums of money which if raised at once by taxation would be an unreasonable burden, and which at the same time are for the benefit of coming generations. Under such circumstances it is thought only fair to allow such money to be obtained by borrowing, the interest and principal of the loan to be paid gradually from the taxes of a series of years (p. 154).

On the other hand, it is not safe to allow governments unlimited power to incur indebtedness, as they would be liable to such extravagance as would in the end result in a crushing load of taxation.

43. State Debts—Accordingly, the General Assembly is forbidden to incur debt at all, except for the purpose of meeting a casual deficit in revenue, and then only to the amount of two hundred and fifty thousand dollars. No debt for any other purpose

* Rev. Stat., c. 24, § 111.

(except in case of insurrection or invasion) may be incurred unless the people of the State authorize such debt by vote at a general election (Ill. Const., Art. IV., § 18. *See also* p. 154).

44. Local Debts—Local authorities (county, city, town, or village) are forbidden to incur debt to an amount exceeding five per cent. on the assessed valuation of the taxable property (Ill. Const., Art. IX., § 12). Further, no such debt shall be incurred unless provision is at the same time made for meeting the interest and principal as the same shall fall due (p. 154).

45. Eminent Domain—By eminent domain is meant the right of the State to take any particular piece of property which belongs to an individual if it is needed for public purposes. It may be for the public interest that a city hall or a school-house should be put in a certain place, or that a railroad or canal should go through a given piece of land. In such cases, if the owner is unwilling to sell, the State has the right to take the land without the owner's consent.

In order to prevent the abuse of that power the bill of rights provides that the right of eminent domain shall not be exercised without giving just compensation to the owner. In case the State and owner do not agree as to the value of what is taken, a jury shall decide (Ill. Const., Art. II., § 13).

46. The Expenditure of Public Funds—It is not enough for the Constitution to put limits on the power of government to lay taxes and to incur debt. If the funds which actually come into the treasury in these ways are taken out again carelessly or dishonestly, it will be necessary to raise so much the more. And so in the end the taxpayer will lose.

For this reason there are careful restrictions connected with the expenditure of public funds.

No money must be taken from the treasury except under an appropriation made by law (Ill. Const., Art. IV., § 17). Laws may be made only in a certain way, so as to insure deliberation and publicity (Art. IV., §§ 12, 13). No extra compensation may be voted to public officers after their service has been rendered (Art. IV., §§ 19, 21). Salaries of members of the Legislature shall not be changed during the term for which they were elected (Art. V., § 23). The same principle is applied to administrative officers. No law may extend the term of a public officer after his election or appointment (Art. IV., § 28). The Legislature has no power to remit debts due to the State or its subdivisions (Art. IV., § 23). The expenditure to be allowed for the State capitol is limited (Art. IV., § 33).

47. Justice and Equality and the General Welfare—Various restrictions are also laid on the State law-making power in the interest of justice and equality of rights among the people—in the interest of the general welfare—in the interest, also, of economy of time for public servants, by preventing their attention from being taken up with a mass of needless details.

48. Special Legislation—To accomplish these ends a variety of restrictions are laid down. Special legislation is prohibited on a long list of subjects (Art. IV., § 22). If it is desired to have a law on any one of these subjects, the law must be a general one for the whole State. For instance, the Legislature is not permitted to pass a law for the organization of schools in St. Clair County alone. The law under which those schools are organized is the general school law of the

State. Of course any special laws for such purposes as had been passed before the adoption of the Constitution of 1870 were not thereby repealed. But no more such laws have been made since that year.

49. Special Laws for Municipal Charters — In some States there is no such limitation on the power of the Legislature, and accordingly each city has a charter—a law which provides the structure and powers of the city government—of its own. The result is not merely that city charters in such States are very different from one another, but also that they are continually being changed. In every city there are political factions or special interests which besiege the Legislature for modifications of the charter. Such modifications are incessantly made, without much regard for the real interests of the city. The requirement of the Illinois Constitution is that there shall be one law for the whole State, providing a plan of government for all cities alike, and that no special act shall be passed for any one city. This cuts off the continual meddling by the Legislature with the government of different cities, for what a particular group of men may want and perhaps might easily get for their own home is by no means so simple a thing if it cannot be done without affecting every city in the State (p. 157).

50. Classification of Cities—Attention should be called to one way in which the restriction of the Illinois Constitution seems to be to some extent evaded. Laws are passed which relate to cities which have a population of more than 100,000. The only city in the State which answers this description is Chicago, and it is evident that the provisions in ques-

tion are intended to apply to Chicago alone. Still, the law is put in general terms, and it is held to be valid to classify cities in this way, provided that in any such class, no matter how many or how few it may contain, the provisions of the law are general.*

51. Special Laws for Other Charters—The same thing is true of other corporations. If every bank or railroad that wished a charter empowering it to do business had to request a special act of the Legislature, there would be room for much injustice and corruption. This is prevented by the simple requirement of a general law.

CORPORATIONS

52. A Corporation is a body of people associated together and authorized by law to do business as a single person. There is always a corporate name, like the "Mutual National Bank," or the "Illinois Central Railroad." A corporation can make contracts, buy and sell property, sue and be sued in the courts, just as if it were one person. The members of a corporation select certain individuals to act as their agents for doing such business.

53. Public or Municipal Corporations include all the people in a given area, and form a part of the government of the State. Cities, villages, and school districts are examples of municipal corporations.

54. Private Corporations do not necessarily include all the people in a given area, and have purposes quite distinct from those of the government of the State.

* Rev. Stat., c. 122, § 173.

Some are business corporations, formed for the sake of profit, like banks, railroads, and manufactories. Some are for educational or benevolent purposes, like colleges or orphan asylums. Some are for religious purposes, like churches; and others, again, for social objects or amusement, like various clubs.

The laws relating to public corporations are discussed under the head of Local Government (p. 137). Some of the provisions as to private corporations, however, may be considered at this point.

The general law for private corporations divides them into two classes—those for pecuniary profit, and those not for pecuniary profit.

55. Corporations for Pecuniary Profit,* with the exception of banks, railroads, and insurance companies, and one or two other kinds, may be formed by filing in the office of the secretary of state (p. 86) a statement setting forth essential facts—like the name and purposes of the association, the amount of its capital stock, and its place of doing business—and then receiving a license authorizing organization. When organization is duly effected, the facts relating to it are also filed in the office of the secretary of state, and that officer then grants a certificate of incorporation.

56. A Corporation not for Pecuniary Profit† is formed by filing in the office of the secretary of state a statement setting forth the name and purposes of the association, and the names of the trustees who are to manage its affairs at the outset, and then receiving from the secretary of state a certificate of incorporation.

* Rev. Stat., c. 32, §§ 1-4.

† Rev. Stat., c. 32, §§ 29, 30.

In each case the powers of the corporation and its mode of doing business are carefully defined in the statute.

57. Churches—Religious corporations (churches) are formed still more simply, as no certificate is required from the secretary of state.*

58. Banks—Banks may be incorporated in accordance with a general law ratified by the people in 1887. Permission to incorporate in this case comes from the auditor (p. 86) instead of the secretary of state.†

59. Railroads—Railroad corporations are formed by filing a statement of essential facts in the office of the recorder of deeds (p. 129) of each county through which it is proposed that the road shall run, and in the office of the secretary of state.‡

60. Insurance Companies—Insurance companies are incorporated by filing with the auditor a statement of essential facts, and receiving from him due authority. §

The powers of banking and railroad corporations are carefully limited by the Constitution (Art. XI.), and still more specifically by the statutes above cited. The statutes, also, are very explicit in guarding the powers and methods of other corporations which are conducted for pecuniary profit.

ANY LEGISLATION ON SOME SUBJECTS FORBIDDEN

61. Some things the Legislature is absolutely prohibited from doing.

62. Indebtedness to the State—No law may be

* Rev. Stat., c. 32, § 35

† Rev. Stat., c. 16a.

‡ Rev. Stat., c. 114.

§ Rev. Stat., c. 73.

passed which releases persons from indebtedness to the State or to any subdivision of the State (Art. IV., § 23).

63. Lotteries—No law may be passed authorizing lotteries or gift enterprises (Art. IV., § 27). Lotteries are a species of gambling. Some generations ago they were thought entirely proper, and were conducted in aid of churches and colleges, and for other eminently respectable purposes. On the whole, however, they were found to be injurious, and so are now forbidden in all the States.*

64. Extending Terms of Office—No law shall extend the term of a public officer after his election or appointment (Art. IV., § 28).

65. Appropriations for Education—No money or other property given for educational purposes shall be devoted to any other purpose (Art. VIII., § 2).

66. Impairing the Obligation of Contracts—No law may be passed which impairs the obligation of contracts—*e.g.*, a law which permits a city to repudiate the payment of its debts (Art. II., § 14). This class of laws is forbidden by the Constitution of the United States,† so the clause in the State Constitution is redundant.

67. Irrevocable Grants of Privilege—No law shall be passed which makes an irrevocable grant of special privileges (Ill. Const., Art. II., § 14).

68. Public Incorporations not Contracts—By the law for the incorporation of cities such corporations are vested with certain powers and privileges. The repeal or modification of such laws, whereby privileges are taken away, is held to be entirely valid.

* Rev. Stat., c. 38, §§ 180-185. † U. S. Const., Art. I., Sec. 10, § 1.

The incorporation of cities is not a contract, in the sense of the Constitution, and hence such repeals do not constitute the impairment of the obligation of a contract.

69. Private Incorporations are Contracts, but may not be Irrevocable—If a charter is granted to a railway, or other private corporation, for a term of years, such grant is a contract. So long, then, as the corporation in question does not violate the conditions of the grant, the Legislature may not revoke it. But, on the other hand, the granting of such a charter in perpetuity is forbidden.

70. Elections—All elections must be free and equal (Ill. Const., Art. II., § 18), and all votes must be by ballot (Ill. Const., Art. VII., § 2).

The election of public officers is at the very foundation of government in a republic. Unless the laws and their administration are such that people may freely express their will at the ballot box, the republic is practically subverted.

71. Subordination of Military to Civil Authority—The military is to be kept in strict subjection to the civil authorities, and soldiers shall not be quartered in private houses without the consent of the owners.

A military force is necessary for defence against attacks from without, and as a last resource in case of internal disorder (Ill. Const., Art. II., §§ 15, 16). But no republic can be free if military force is predominant.*

It was a custom at the time the American republic was founded for soldiers to be kept, when barracks

* U. S. Const., Amdt. III.

were not at hand, by assigning them to private houses. This was inconvenient, annoying, and expensive for the householders. It is forbidden to Federal authorities by the Federal Constitution, and to State authorities by the State Constitution.

THE REMEDY IN CASE GOVERNMENT DISREGARDS CONSTITUTIONAL RESTRICTIONS

It is a maxim of law that for every wrong there should be a remedy. If the government disregards the limitations placed upon it by the Constitution, the remedy of the citizen is found in the courts. Any act of the Legislature which falls within the prohibitions of the Constitution the courts will declare to be unconstitutional, and so void and of no effect. Any act of an administrative officer in accordance with such a law, or in any way in excess of his legal powers, a court will prevent by a prohibitory writ—a writ of injunction.

The courts will not pass on the question of the constitutionality of a law, however, unless a *case* is brought—*i.e.*, unless some one claims that he is actually wronged by the application of a statute, and asks for redress.

CHAPTER XIV

ILLINOIS AND THE UNITED STATES

ILLINOIS IN THE FEDERAL GOVERNMENT

1. Representation—Illinois, as a State of the Union, is represented in the Federal government ; and, for the same reason, the Federal government is represented in Illinois.

As a State of the Union, Illinois is entitled to two senators, to such a number of representatives in Congress as the population of the State may warrant, and to a number of Presidential electors equal to the number of senators and representatives taken together.

2. Senators—The two senators are elected by the State Legislature, as the Federal Constitution and laws require. Each has a term of six years—the present term of one expiring March 4, 1901, and that of the other March 4, 1903. In the winter preceding those two dates the Legislature will make a new election.

3. Election—The method of election is fixed by Federal statute.

The State Legislature chosen at the election next preceding the date at which the term of a senator from that State expires is the Legislature which may choose a new senator.*

On the second Tuesday after the Legislature meets and is organized, each house, by a *viva voce* vote, nom-

* U. S. Rev. Stat., §§ 14-19.

inates one person as senator. On the next day, at noon, the two houses convene in joint session and formally report the action of each on the previous day. If then it appears that the same person was nominated by both houses, he is declared elected. Otherwise the houses, in joint session, proceed to vote *viva voce*, a majority of all the members elected to both houses being required for an election. If there is no election the first day of the joint session, then at noon on the following day the joint session reconvenes, and goes on voting. This process is continued until there is an election.

4. Vacancy—In case of vacancy in the office of senator, if such vacancy happens during a recess of the Legislature, the governor of the State may appoint a temporary senator, who holds office until the next meeting of the Legislature; in that case, or in case of a vacancy which happens while the Legislature is in session, the Legislature proceeds to elect a senator in the same manner as above described.

5. Representatives—By the congressional apportionment at present in force, Illinois has twenty-two members of the Federal House of Representatives.* After the national census of 1900, Congress will pass a new law, fixing the total number of members in the House of Representatives and allotting the proportional numbers to the various States.

6. Apportionment—An apportionment act is made in this way :

It is first decided of what number the house shall consist. Too large a house is unwieldy, too small a

* Act of Feb. 7, 1891.

house does not afford adequate representation to the increasing population. The present number is 356 (357 with Utah, see p. 197).

The number of representatives being determined, the total population of the United States, as ascertained by the last census, is divided by this number, and the quotient is the *representative ratio*—i.e., theoretically each State should have as many representatives as its population contains the ratio. Dividing the population of each State by the ratio, the quotient indicates the number of congressmen to which the State is entitled; but in each case there is a remainder. Were there no remainders, the sum of the quotients would exactly equal the total number of representatives in the house. In fact, however, the sum of the quotients always falls short of the total number of representatives. The difference is made up by adding one congressman successively to the number allotted to each State which has a large remainder (under the law of 1891, to each State with a remainder greater than half the ratio). It must be noted also that each State must have at least one representative, no matter how small its population.

The last apportionment act of Congress, passed in 1891, proceeded on this principle. The total population of the States and Territories, by the census of 1890, was 62,622,250. From this total was subtracted the population of the Territories, which are not entitled to representatives. The remainder, 61,908,906, was the population of the States. The number 356 was fixed as the number of representatives. This particular number was selected because tests with various numbers showed that 356 would result in not decreas-

ing the number of representatives to which any State had been entitled under the previous apportionment, and at the same time would assign one representative to each remainder that equalled or exceeded one-half of the representative ratio.

Dividing 61,908,906 by 356, the quotient, 173,901 (disregarding the remainder), is the representative ratio. Dividing the population of each State by this ratio, the sum of the quotients is 339. The remaining seventeen representatives were then assigned to the States with large remainders.

When Utah was admitted as a State (in 1896) it was given one representative, which made the total number 357.

The population of Illinois in 1890 was 3,826,351. Dividing this by 173,901, the quotient is 22, with a remainder of only 529. So Illinois has twenty-two representatives.

7. Election—There are two ways in which the representatives of a State might be chosen—either all on a single ticket by the State as a whole, or separately in districts. Until 1842 Congress left the States free to do as they pleased in the matter, and the result was that some States followed one plan and others the other. Since 1842, however, the successive apportionment acts of Congress have required that in all the States representatives shall be chosen by the district plan, one representative from each district. It is also required that the districts shall be composed of contiguous territory, and that they shall be as nearly as possible equal in population. The formation of districts is left to the State Legislatures.*

* Act of 1891, § 3.

8. The Gerrymander—In forming congressional districts it is possible for a legislature controlled by one political party to make arrangements very much to the advantage of that party. The method is to put together counties or parts of counties in such way that the favored party may carry many districts by small majorities, while the other party may carry a few districts by large majorities. This process is called “gerrymandering” (p. 57). The act of Congress attempts to lessen the ease of gerrymandering districts by the requirement above noted—that they shall be composed of contiguous territory and shall be as nearly as possible equal in population.

The twenty-two Illinois districts with their respective population are given in the Appendix (p. 252).

9. Time of Election—The Federal law requires that members of Congress shall be elected on the Tuesday next following the first Monday in November of the even numbered years.* A few States whose Constitutions fix another date are permitted to be exceptions—Maine holding the election on the second Monday in September, Vermont on the first Tuesday in September, and Oregon on the first Monday in June.†

10. Ballots—The Federal law also requires that the elections shall be conducted by using written or printed ballots.‡ The present election law of Illinois goes much further than this, and provides for the method of voting which is known as the “Australian ballot” (p. 50).

11. Presidential Electors—The President of the

* U. S. Rev. Stat., Sec. 25. † Act of March 3, 1875, Sec. 6.

‡ U. S. Rev. Stat., Sec. 27.

United States is chosen by electors representing the several States.

12. Mode of Election—The electors in each State are appointed “in such manner as the Legislature thereof may direct.”* Accordingly State Legislatures have used this power very freely. In some States the Legislatures themselves chose the electors—as was the case in South Carolina until after the Civil War. In other States electors have been chosen separately in districts, like the representatives in Congress. This was done in Michigan in 1892. But all the States now choose the electors by popular election on a general ticket. By this method the party which carries a State, no matter by how small a majority or plurality, secures all the electors to which that State is entitled. The method of choosing electors is entirely at the discretion of the State Legislatures, Congress having no voice in the matter.

13. Time of Election—The time of election also is now the same in all the States—the Tuesday next following the first Monday in November of the year just preceding the beginning of the presidential term. This is fixed by act of Congress.†

14. Number of Electors—The number of electors to which any State is entitled is equal to the whole number of senators and representatives which that State has in Congress.‡ Illinois, therefore, under the present apportionment, has twenty-four electors. New York has thirty-six electors, Pennsylvania has thirty-two, every other State has less than Illinois.

* U. S. Const., Art. II., Sec. 2.

† U. S. Const., Art. II., Sec. 1, § 4; U. S. Rev. Stat., Sec. 131.

‡ U. S. Const., Art. II., Sec. 2.

15. Proceedings of Electors—The proceedings of the electors after they are chosen are regulated by act of Congress, under the Constitution of the United States.*

By the statute the governor of each State is required to furnish to each person chosen as an elector in that State three copies of the certificate of election, and to send to the secretary of state of the United States a certificate containing the names of all the persons chosen as electors in that State, as well as a statement of the number of votes cast for every person for whom any votes were cast at all for that office.

By the Constitution† the electors are required to meet in their respective States and to vote by ballot for President and Vice-President of the United States, designating the candidates for the two offices on different ballots. It is also required that lists shall be made of the votes cast for each candidate for either office, and that these lists, duly signed and certified by the electors, shall be transmitted, sealed, to the president of the United States Senate.

The statute makes still more detailed provision for these transactions. The electors are to meet on the second Monday in January succeeding their appointment.‡ They are to make three copies of the results of their balloting. To each copy is attached a copy of the governor's certificate of the choice of the electors.§ One copy is sent to the president of the United States Senate by mail, another is sent to him by a special messenger, and the third is deposited with the United

* Act of Feb. 3, 1887.

† Act of 1887, § 1.

‡ U. S. Const., Amdt. XII.

§ U. S. Rev. Stat., § 140.

States district judge in the district in which the meeting of electors is held. The law also provides for settling disputes which may arise as to the choice of electors.*

THE UNITED STATES IN ILLINOIS

THE FEDERAL JUDICIARY

16. The United States courts consist of the Supreme Court, which sits at Washington; the nine circuit courts of appeal, the nine circuit courts, and the seventy-three district courts.

The Constitution provides that there shall be "one Supreme Court and such inferior courts as Congress may from time to time ordain and establish." † As this, however, does not specify the details of structure of the Supreme Court, and definitely leaves the planning of other courts entirely to Congress, it follows that the Federal Legislature, in fact, has the power to create the whole structure of the Federal courts. This has been done in the various judiciary acts.

17. Supreme Court—The Supreme Court consists of nine members—one chief justice and eight associate justices.‡ The chief justice at present is Melville W. Fuller, of Illinois.

18. Districts and District Courts—The entire Union is divided into a convenient number of districts. Some districts consist of a single State. Very populous States, or States of very large area, are divided

* Act of 1887.

† U. S. Const., Art. III., § 1.

‡ U. S. Rev. Stat., § 673.

into two or more districts.* This is the case with Illinois, which comprises two Federal judicial districts—the northern and the southern.† In each district there is a United States district court, consisting (usually) of one judge.‡ He holds court in a specified place. In the northern district of Illinois this place is Chicago; in the southern district it is Springfield.

19. Circuit Courts—The entire Union, again, is divided into nine circuits, each circuit consisting of several States, and therefore, of course, including a number of districts.§ Illinois is in the seventh judicial circuit, which includes the States of Indiana, Illinois, and Wisconsin.

20. Circuit Courts and Circuit Courts of Appeals—In each circuit there are held two Federal courts—the circuit court and the circuit court of appeals. Each consists of a member of the Supreme Court and two circuit judges. In some circuits there is an additional judge. In the absence of any of these, district judges within the circuit are called in.¶ Mr. Chief Justice Fuller is assigned to the seventh circuit.

21. Circuit Courts—A circuit court is held by any one of the above-named judges, or by any two sitting together. It is the practice of the circuit courts,¶ as the name implies, to hold sessions successively in each district throughout the circuit.

22. Jurisdiction—Circuit and district courts have original jurisdiction—certain classes of cases being

* U. S. Rev. Stat., § 530, sqq. and Amendments.

† § 536. ‡ § 551. § U. S. Rev. Stat., § 604.

¶ U. S. Rev. Stat., §§ 605-7. Act of March 3, 1891.

¶ U. S. Rev. Stat., § 608.

heard first in a district court, others being heard first in a circuit court.*

23. Circuit Court of Appeals—In each circuit there is a circuit court of appeals. This consists always of three judges sitting together, two of whom form a quorum. If the Supreme Court justice or either of the circuit judges is not present, then district judges are called in.† A term of the circuit court of appeals is held annually in each circuit at a designated place. This place in the seventh circuit is Chicago. The court may also, from time to time, decide on a session at some other place within the circuit.

24. Jurisdiction—The jurisdiction of the circuit court of appeals is limited to appeals from the district and circuit courts within the circuit.‡ From the decision of either a district or circuit court appeals may be taken, according to the nature of the case, either to the circuit court of appeals or directly to the Supreme Court of the United States. Certain of these appeals to the circuit court may not be further appealed to the Supreme Court. Any question, however, which involves the constitutionality of a law, and some others, may, under any circumstances, go to the Supreme Court.

25. Salaries—The salaries of Federal judges are not large.§ As the appointment is virtually for life, however, the position is a very desirable one. The district judges receive \$3,500–\$5,000; circuit judges, \$6,000; associate justices of the Supreme Court, \$10,000; the

* U. S. Rev. Stat., §§ 563–571; §§ 629–637.

† Act of 1891, §§ 1–3.

‡ Act of 1891, §§ 4–15.

§ U. S. Rev. Stat., §§ 554, 607, 676, 714.

chief justice, \$10,500. At the age of seventy, any judge who has been on the Federal bench for ten years may retire on full salary.

THE POST-OFFICES

26. The postmaster-general of the United States has charge of the department which carries the mails. Besides his assistants and clerks at Washington, there is in every city and village, and in many country districts, a post-office, in charge of a postmaster and a greater or less number of assistants. In places of considerable population there are carriers whose duties are to gather the mail from boxes which are put in various places for the convenience of the people, and to deliver mail at homes and places of business. The railway mail service includes a number of employees whose duties are to distribute mail on the cars, so that there may be no delay in delivery at its destination.

Post-offices are of four classes, determined by the amount of business which they do, and hence by the amount of the postmaster's salary.* Offices in which the salary is \$3,000 or over are of the first class; those in which the salary is \$2,000 to \$3,000 are of the second class; those in which the salary is \$1,000 to \$2,000 are of the third class; those in which the salary is less than \$1,000 are of the fourth class.

Postmasters of the first three classes are appointed for a term of four years by the President, by and with the advice and consent of the Senate. Such offices are, therefore, called presidential offices. Postmasters of

* Act of July 12, 1876.

the fourth class are appointed by the postmaster-general.*

There are in Illinois 256 presidential post-offices. Ten are of the first class—Bloomington, Chicago, Decatur, Elgin, Galesburg, Joliet, Peoria, Quincy, Rockford, and Springfield. There are 43 of the second class, and 203 of the third class.

27. Postal Stations—In large cities there are postal stations in different parts of the city. Each is managed by a superintendent, under the direction of the city postmaster. These stations are really smaller post-offices, each with its service of carriers, its sale of stamps, and its money-order and registered-letter business.

CUSTOMS AND REVENUE

28. A Port of Entry is a port situated on ocean, lake, or river, to which goods may be brought from a foreign country.† Sometimes such goods are landed at a seaport and carried by railroad to some other port of entry where they are to be delivered. Before such goods can be taken by the consignee a tax must be paid to the United States. This tax is called a *duty*. In every port of entry there is an office where such duties are collected. The Federal officer in charge is the *collector of customs*. There are also various other officers and employees connected with a custom-house. All these are officers of the United States Treasury Department. In Illinois the only port of entry is Chicago, but Cairo, Rock Island, Peoria, and Galena are known as *ports of delivery*, and are permitted to re-

* U. S. Rev. Stat., § 3330.

† U. S. Rev. Stat., § 2767.

ceive imported goods which have been duly entered and appraised in a port of entry.

It is illegal to bring foreign goods into the country except at some port of entry.

29. Internal Revenue Collectors—A large part of the United States taxes are collected at the custom-houses. However, there are also other taxes collected within the country. These taxes are called the *internal revenue*.* They are gathered from manufacturers of tobacco, spirituous liquors, and various other articles. In time of war the internal revenue taxes are greatly increased, being laid on a much greater number of things. These taxes are usually paid by buying stamps. The officer who has charge of the collection is called a *collector of internal revenue*. There is one for each of the 126 districts in the United States. Illinois has eight collection districts, and hence eight collectors.

30. Assistant Treasurer—There is also at Chicago a branch of the United States treasury, in charge of an assistant treasurer. He receives funds from various sources for the treasury.

UNITED STATES ARMY AND NAVY

31. Scattered throughout the United States there are various forts and posts at which are stationed portions of the United States regular army. Some of these forts are strongly fortified, with heavy cannon, so as to repel invasion. Such is the case at the entrance to the harbor of New York. Other posts are arranged merely for the convenience of keeping troops. This is the case at Fort Sheridan, near Chicago.

* U. S. Rev. Stat., § 3141, note.

The Constitution gives to Congress exclusive jurisdiction "over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." * Such military reservations in Illinois are two—Fort Sheridan, on the shore of Lake Michigan, north of Chicago, and the arsenal at Rock Island.

The "exclusive jurisdiction" of Congress means that the only laws which are in force are those of the United States. In giving consent to such arrangements, however, State Legislatures often make it a condition that the processes of State courts may still be executed within the reservation. That has been done by Illinois with reference both to Fort Sheridan and to Rock Island. Aside from this, these reservations are as much apart from State law as is the District of Columbia.

32. Navy on the Lakes—The vessels of the United States navy are seldom seen on the great lakes. By a treaty made with Great Britain in 1817, it was agreed that each of the two nations should keep on the upper lakes—*i.e.*, Erie, Huron, Michigan, and Superior—not more than two small vessels in all. Occasionally one of these craft appears at Chicago. There is little likelihood that the United States will ever be involved in a naval war on the great lakes.

ILLINOIS IN FEDERAL OFFICE

33. Illinois has furnished the United States its full share of officers who have done distinguished service to the republic.

* U. S. Const., Art. I., Sec. 8, § 17.

Abraham Lincoln was President of the United States from March 4, 1861, until his death, April 15, 1865. He was elected for a second term.

Ulysses S. Grant was general in command of the armies of the United States, having won this rank by his great military successes during the Civil War. He was President of the United States from 1869 to 1877.

Elihu B. Washburne did especially valuable service as Minister of the United States to France during the critical period of the wars of 1870-71.

Melville W. Fuller is now chief justice of the Supreme Court of the United States.

The names of many others, living and dead, who have honored Illinois in the national service, might easily be added.

APPENDIX

I. CONSTITUTION OF THE STATE OF ILLINOIS

ADOPTED IN CONVENTION AT SPRINGFIELD, MAY 13, A. D. 1870

Ratified by the People July 2, 1870; in force August 8, 1870

PREAMBLE

We, the people of the State of Illinois—grateful to Almighty God for the civil, political, and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations—in order to form a more perfect government, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the State of Illinois.

ARTICLE I

BOUNDARIES

The boundaries and jurisdiction of the State shall be as follows, to-wit: Beginning at the mouth of Wabash River; thence up the same, and with the line of Indiana, to the northwest corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of the Mississippi River, and thence down along the middle of that river to its confluence with the Ohio River, and thence up the latter river along its northwestern shore, to the place beginning: *Provided*, that this State shall exercise such jurisdiction upon the Ohio River, as she is now entitled to, or such as may hereafter be agreed upon by this State and the State of Kentucky.

ARTICLE II

BILL OF RIGHTS

§ 1. All men are by nature free and independent, and have certain inherent and inalienable rights—among these are life, liberty, and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

§ 2. No person shall be deprived of life, liberty, or property, without due process of law.

§ 3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

§ 4. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defence.

§ 5. The right of trial by jury as heretofore enjoyed, shall remain inviolate; but the trial of civil cases before justices of the peace, by a jury of less than twelve men, may be authorized by law.

§ 6. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched, and the persons and things to be seized.

§ 7. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

§ 8. No person shall be held to answer for a criminal offence, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger: *Provided*, that the grand jury may be abolished by law in all cases.

§ 9. In all criminal prosecutions, the accused shall have the right to appear and defend in person and by counsel; to demand the nature

and cause of the accusation, and to have a copy thereof; to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed.

§ 10. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offence.

§ 11. All penalties shall be proportioned to the nature of the offence; and no conviction shall work corruption or forfeiture of estate; nor shall any person be transported out of the State for any offence committed within the same.

§ 12. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases where there is strong presumption of fraud.

§ 13. Private property shall not be taken or damaged for public use without just compensation. Such compensation, when not made by the State, shall be ascertained by a jury, as shall be prescribed by law. The fee of land taken for railroad tracks, without consent of the owners thereof, shall remain in such owners, subject to the use for which it is taken.

§ 14. No *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities shall be passed.

§ 15. The military shall be in strict subordination to the civil power.

§ 16. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

§ 17. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives, and to apply for redress of grievances.

§ 18. All elections shall be free and equal.

§ 19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property, or reputation; he ought to obtain, by law, right and justice freely and without being obliged to purchase it, completely and without denial, promptly and without delay.

§ 20. A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

ARTICLE III

DISTRIBUTION OF POWERS

The powers of the government of this State are divided into three distinct departments—the Legislative, Executive, and Judicial; and no

person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE IV

LEGISLATIVE DEPARTMENT

§ 1. The legislative power shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both to be elected by the people.

ELECTION

§ 2. An election for members of the General Assembly shall be held on the Tuesday next after the first Monday in November, in the year of our Lord one thousand eight hundred and seventy, and every two years thereafter, in each county, at such places therein as may be provided by law. When vacancies occur in either house, the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancy.

ELIGIBILITY AND OATH

§ 3. No person shall be a senator who shall not have attained the age of twenty-five years, or a representative who shall not have attained the age of twenty-one years. No person shall be a senator or representative who shall not be a citizen of the United States, and who shall not have been for five years a resident of this State, and for two years next preceding his election a resident within the territory forming the district from which he is elected. No judge or clerk of any court, secretary of state, attorney-general, state's attorney, recorder, sheriff, or collector of public revenue, member of either house of Congress, or person holding any lucrative office under the United States or this State, or any foreign government, shall have a seat in the General Assembly: *Provided*, that appointments in the militia, and the offices of notary public and justice of the peace, shall not be considered lucrative. Nor shall any person holding any office of honor or profit under any foreign government, or under the government of the United States (except postmasters whose annual compensation does not exceed the sum of three hundred dollars), hold any office of honor or profit under the authority of this State.

§ 4. No person who has been, or hereafter shall be convicted of bribery, perjury, or other infamous crime, nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the General Assembly, or to any office of profit or trust in this State.

§ 5. Members of the General Assembly, before they enter upon their official duties, shall take and subscribe the following oath or affirmation :

“ I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Illinois, and will faithfully discharge the duties of senator (or representative) according to the best of my ability ; and that I have not knowingly or intentionally, paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill the said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company, or person, for any vote or influence I may give or withhold on any bill, resolution, or appropriation, or for any other official act.”

This oath shall be administered by a judge of the supreme or circuit court in the hall of the house to which the member is elected, and the secretary of state shall record and file the oath subscribed by each member. Any member who shall refuse to take the oath herein prescribed shall forfeit his office, and every member who shall be convicted of having sworn falsely to, or of violating his said oath, shall forfeit his office and be disqualified thereafter from holding any office of profit or trust in this State.

APPORTIONMENT—SENATORIAL

§ 6. The General Assembly shall apportion the State every ten years, beginning with the year one thousand eight hundred and seventy-one, by dividing the population of the State, as ascertained by the Federal census, by the number fifty-one, and the quotient shall be the ratio of representation in the senate. The State shall be divided into fifty-one senatorial districts, each of which shall elect one senator, whose term of office shall be four years. The senators elected in the year of our Lord one thousand eight hundred and seventy-two, in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers, at the end of four years ; and vacancies occurring by the expiration of term shall be filled by the election of senators for the full term. Senatorial districts shall be formed of contiguous and compact territory, bounded by county lines, and contain as nearly as practicable an equal number of inhabitants ; but no district shall contain less than four-fifths of the senatorial ratio. Counties containing not less than the ratio and three fourths, may be divided into separate districts, and shall be entitled to two senators, and to one additional senator for each number of inhabitants equal to the ratio contained by such counties in excess of twice the number of said ratio.

NOTE.—By the adoption of minority representation, §§ 7 and 8 of this article cease to be a part of the Constitution. Under § 12 of the schedule, and the vote of adoption, the following sections, relating to minority representation, are substituted for said sections:

MINORITY REPRESENTATION

§§ 7 and 8. The House of Representatives shall consist of three times the number of the members of the Senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the general election in the year of our Lord one thousand eight hundred and seventy-two, and every two years thereafter. In all elections of representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit; and the candidates highest in votes shall be declared elected.

TIME OF MEETING AND GENERAL RULES

§ 9. The sessions of the General Assembly shall commence at twelve o'clock noon, on the Wednesday next after the first Monday in January, in the year next ensuing the election of members thereof, and at no other time, unless as provided by this Constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings, and be the judge of the election, returns, and qualifications of its members; shall choose its own officers; and the Senate shall choose a temporary president to preside when the lieutenant-governor shall not attend as president, or shall act as governor. The secretary of State shall call the House of Representatives to order at the opening of each new assembly, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either house, except by a vote of two-thirds of all the members elected to that house, and no member shall be twice expelled for the same offence. Each house may punish by imprisonment any person, not a member, who shall be guilty of disrespect to the house by disorderly or contemptuous behavior in its presence. But no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

§ 10. The door of each house and of committees of the whole shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, or to any other place than that in which the two houses shall be sitting. Each house shall keep a journal of its proceedings, which shall be published. In the Senate, at the request of two members, and in the house, at the request of five members, the yeas and nays shall be taken on any question, and entered upon the journal. Any two members of either house shall have liberty to dissent from and protest, in respectful language, against any act or resolution which they think injurious to the public or to any individual, and have the reasons of their dissent entered upon the journals.

STYLE OF LAWS AND PASSAGE OF BILLS

§ 11. The style of the laws of this State shall be: "*Be it enacted by the People of the State of Illinois, represented in the General Assembly.*"

§ 12. Bills may originate in either house, but may be altered, amended, or rejected by the other; and on the final passage of all bills, the vote shall be by yeas and nays, upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of a majority of the members elected to each house.

§ 13. Every bill shall be read at large on three different days, in each house; and the bill and all amendments thereto shall be printed before the vote is taken on its final passage; and every bill, having passed both houses, shall be signed by the speakers thereof. No act hereafter passed shall embrace more than one subject, and that shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed; and no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act. And no act of the General Assembly shall take effect until the first day of July next after its passage, unless, in case of emergency (which emergency shall be expressed in the preamble or body of the act) the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.

PRIVILEGES AND DISABILITIES

§ 14. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the General Assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

§ 15. No person elected to the General Assembly shall receive any civil appointment within this State from the governor, the governor and senate, or from the General Assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such members for any such office or appointment, shall be void; nor shall any member of the General Assembly be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

PUBLIC MONEYS AND APPROPRIATIONS

§ 16. The General Assembly shall make no appropriation of money out of the treasury in any private law. Bills making appropriations for

the pay of members and officers of the General Assembly, and for the salaries of the officers of the government, shall contain no provision on any other subject.

§ 17. No money shall be drawn from the treasury except in pursuance of an appropriation made by law, and on the presentation of a warrant issued by the auditor thereon; and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall, within sixty days after the adjournment of each session of the General Assembly, prepare and publish a full statement of all money expended at such session, specifying the amount of each item, and to whom and for what paid.

§ 18. Each General Assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of the members elected to each house, nor exceed the amount of revenue authorized by law to be raised in such time; and all appropriations, general or special, requiring money to be paid out of the State treasury, from funds belonging to the State, shall end with such fiscal quarter. *Provided*, the State may, to meet casual deficits or failures in revenues, contract debts, never to exceed in the aggregate two hundred and fifty thousand dollars; and moneys thus borrowed shall be applied to the purpose for which they were obtained, or to pay the debt thus created, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war (for payment of which the faith of the State shall be pledged), shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people and have received a majority of the votes cast for members of the General Assembly at such election. The General Assembly shall provide for the publication of said law for three months, at least, before the vote of the people shall be taken upon the same; and provision shall be made, at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrevocable until such debt be paid. *And, provided further*, that the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

§ 19. The General Assembly shall never grant or authorize extra compensation, fee, or allowance to any public officer, agent, servant, or contractor, after service has been rendered on a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the State under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void. *Provided*, the General Assembly may make

appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

§ 20. The State shall never pay, assume, or become responsible for the debts or liabilities of, or in any manner give, loan, or extend its credit to, or in aid of, any public or other corporation, association, or individual.

PAY OF MEMBERS

§ 21. The members of the General Assembly shall receive for their services the sum of five dollars per day, during the first session held under this constitution, and ten cents for each mile necessarily traveled in going to, and returning from, the seat of government, to be computed by the auditor of public accounts; and thereafter such compensation as shall be prescribed by law, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except the sum of fifty dollars per session to each member, which shall be in full for postage, stationery, newspapers, and all other incidental expenses and perquisites; but no change shall be made in the compensation of the General Assembly during the term for which they may have been elected. The pay and mileage allowed to each member of the General Assembly shall be certified by the speakers of their respective houses, and entered on the journals, and published at the close of each session.

SPECIAL LEGISLATION PROHIBITED

§ 22. The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say, for—

- Granting divorces;
- Changing the names of persons or places;
- Laying out, opening, altering, and working roads or highways;
- Vacating roads, town plats, streets, alleys, and public grounds;
- Locating or changing county seats;
- Regulating county and township affairs;
- Regulating the practice in courts of justice;
- Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables;
- Providing for changes of venue in civil and criminal cases;
- Incorporating cities, towns, or villages, or changing or amending the charter of any town, city, or village;
- Providing for the election of members of the Board of Supervisors in townships, incorporated towns, or cities;
- Summoning and impaneling grand or petit juries;
- Providing for the management of common schools;
- Regulating the rate of interest on money;
- The opening and conducting of an election, or designating the place of voting;

The sale or mortgage of real estate belonging to minors or others under disability ;

The protection of game or fish ;

Chartering or licensing ferries or toll bridges ;

Remitting fines, penalties, or forfeitures ;

Creating, increasing, or decreasing fees, percentages, or allowances of public officers, during the term for which said officers are elected or appointed ;

Changing the law of descent ;

Granting to any corporation, association, or individual the right to lay down railroad tracks, or amending existing charters for such purpose.

Granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever.

In all other cases where a general law can be made applicable, no special law shall be enacted.

§ 23. The General Assembly shall have no power to release or extinguish, in whole or in part, the indebtedness, liability, or obligation of any corporation or individual to this State or to any municipal corporation therein.

IMPEACHMENT

§ 24. The House of Representatives shall have the sole power of impeachment ; but a majority of all the members elected must concur therein. All impeachments shall be tried by the Senate ; and when sitting for that purpose, the senators shall be upon oath or affirmation, to do justice according to law and evidence. When the governor of the State is tried, the chief justice shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected. But judgment, in such cases, shall not extend further than removal from office, and disqualification to hold any office of honor, profit, or trust under the government of this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

MISCELLANEOUS

§ 25. The General Assembly shall provide, by law, that the fuel, stationery, and printing paper furnished for the use of the State ; the copying, printing, binding, and distributing the laws and journals, and all other printing ordered by the General Assembly, shall be let by contract to the lowest responsible bidder ; but the General Assembly shall fix a maximum price ; and no member thereof, or other officer of the State, shall be interested, directly or indirectly, in such contract. But all such contracts shall be subject to the approval of the governor, and if he disapproves the same, there shall be a re-letting of the contract, in such manner as shall be prescribed by law.

§ 26. The State of Illinois shall never be made defendant in any court of law or equity.

§ 27. The General Assembly shall have no power to authorize lotteries or gift enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State.

§ 28. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

§ 29. It shall be the duty of the General Assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement shafts, or such other appliances as may secure safety in all coal mines, to provide for the enforcement of said laws by such penalties and punishments as may be deemed proper.

§ 30. The General Assembly may provide for establishing and opening roads and cartways, connected with a public road, for private and public use.

§ 31.* The General Assembly may pass laws permitting the owners of land to construct drains, ditches, and levees for agricultural, sanitary, or mining purposes, across the lands of others, and provide for the organization of drainage districts, and vest the corporate authorities thereof with power to construct and maintain levees, drains, and ditches, and to keep in repair all drains, ditches, and levees heretofore constructed under the laws of this State, by special assessments upon the property benefited thereby.

§ 32. The General Assembly shall pass liberal homestead and exemption laws.

§ 33. The General Assembly shall not appropriate out of the State treasury, or expend on account of the new capitol grounds, and construction, completion, and furnishing of the Statehouse, a sum exceeding, in the aggregate, three and a half millions of dollars, inclusive of all appropriations heretofore made, without first submitting the proposition for an additional expenditure to the legal voters of the State, at a general election; nor unless a majority of all votes cast at such election shall be for the proposed additional expenditure.

ARTICLE V

EXECUTIVE DEPARTMENT

§ 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, and attorney-general, who shall each, with the exception of treasurer, hold his office for the term of four

* As amended in 1878.

years from the second Monday of January next after his election, and until his successor is elected and qualified. They shall, except the lieutenant-governor, reside at the seat of government during the term of office, and keep the public records, books, and papers there, and shall perform such duties as may be prescribed by law.

§ 2. The treasurer shall hold his office for the term of two years, and until his successor is elected and qualified; and shall be ineligible to said office for two years next after the end of the term for which he was elected. He may be required by the governor to give reasonable additional security, and in default of so doing his office shall be deemed vacant.

ELECTION

§ 3. An election for governor, lieutenant-governor, secretary of state, auditor of public accounts, and attorney-general, shall be held on the Tuesday next after the first Monday of November, in the year of our Lord one thousand eight hundred and seventy-two, and every four years thereafter; for superintendent of public instruction, on the Tuesday next after the first Monday of November, in the year one thousand eight hundred and seventy, and every four years thereafter; and for treasurer, on the day last above mentioned, and every two years thereafter, at such places and in such manner as may be prescribed by law.

§ 4. The returns of every election for the above-named officers shall be sealed up and transmitted, by the returning officers, to the secretary of state, directed to "The Speaker of the House of Representatives," who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the General Assembly, who shall for that purpose assemble in the hall of the House of Representatives. The person having the highest number of votes for either of said offices, shall be declared duly elected; but if two or more have an equal, and the highest number of votes, the General Assembly shall, by joint ballot, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the General Assembly, by joint ballot, in such manner as may be prescribed by law.

ELIGIBILITY

§ 5. No person shall be eligible to the office of governor, or lieutenant-governor, who shall not have attained the age of thirty years, and been for five years next preceding his election a citizen of the United States and of this State. Neither the governor, lieutenant-governor, auditor of public accounts, secretary of state, superintendent of public instruction, nor attorney-general shall be eligible to any other office during the period for which he shall have been elected.

GOVERNOR

§ 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

§ 7. The governor shall, at the commencement of each session, and at the close of his term of office, give to the General Assembly information, by message, of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the General Assembly, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and, at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

§ 8. The governor may, on extraordinary occasions, convene the General Assembly, by proclamation, stating therein the purpose for which they are convened; and the General Assembly shall enter upon no business except that for which they were called together.

§ 9. In case of a disagreement between the two houses with respect to the time of adjournment, the governor may, on the same being certified to him by the house first moving the adjournment, adjourn the General Assembly to such time as he thinks proper, not beyond the first day of the next regular session.

§ 10. The governor shall nominate and, by and with the advice and consent of the Senate (a majority of all the senators elected concurring by yeas and nays), appoint all officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the General Assembly.

§ 11. In case of vacancy, during the recess of the Senate, in any office which is not elective, the governor shall make a temporary appointment until the next meeting of the Senate, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the Senate (a majority of all the senators elected concurring by yeas and nays), shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate, or be appointed to the same office during the recess of the General Assembly.

§ 12. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office; and he may declare his office vacant and fill the same as is herein provided in other cases of vacancy.

§ 13. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences, subject to such

regulations as may be provided by law relative to the manner of applying therefor.

§ 14. The governor shall be commander-in-chief of the military and naval forces of the State (except when they shall be called into the service of the United States); and may call out the same to execute the laws, suppress insurrection, and repel invasion.

§ 15. The governor, and all civil officers of this State, shall be liable to impeachment for any misdemeanor in office.

VETO

§ 16. Every bill passed by the General Assembly shall, before it becomes a law, be presented to the governor.

If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider the bill. If, then, two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. But in all such cases, the vote of each house shall be determined by yeas and nays, to be entered on the journal.*

* Bills making appropriations of money out of the treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and sections, and if the governor shall not approve any one or more of the items or sections contained in any bill, but shall approve the residue thereof, it shall become a law as to the residue in like manner as if he had signed it.

* The governor shall then return the bill, with his objections to the items or sections of the same not approved by him, to the house in which the bill shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider so much of the said bill as is not approved by the governor.

* The same proceedings shall be had in both houses in reconsidering the same as is hereinbefore provided in case of an entire bill returned by the governor with his objections; and if any item or section of said bill not approved by the governor shall be passed by two-thirds of the members elected to each of the two houses of the General Assembly, it shall become part of said law, notwithstanding the objections of the governor.

Any bill which shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, shall become a law in like manner as if he had signed it; unless the General

Assembly shall, by their adjournment, prevent its return ; in which case it shall be filed, with his objections, in the office of the secretary of state, within ten days after such adjournment, or become a law.

LIEUTENANT-GOVERNOR

§ 17. In case of the death, conviction, or impeachment, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties, and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant-governor.

§ 18. The lieutenant-governor shall be president of the Senate, and shall vote only when the Senate is equally divided. The Senate shall choose a president, *pro tempore*, to preside in case of the absence or impeachment of the lieutenant-governor, or when he shall hold the office of governor.

§ 19. If there be no lieutenant-governor, or if the lieutenant-governor shall, for any of the causes specified in section seventeen of this article, become incapable of performing the duties of the office, the president of the Senate shall act as governor until the vacancy is filled or the disability removed ; and if the president of the Senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the House of Representatives.

OTHER STATE OFFICERS

§ 20. If the office of auditor of public accounts, treasurer, secretary of state, attorney-general, or superintendent of public instruction shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. An account shall be kept by the officers of the Executive Department, and of all the public institutions of the State, of all moneys received or disbursed by them, severally, from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath ; and any officer who makes a false report shall be guilty of perjury, and be punished accordingly.

§ 21. The officers of the Executive Department, and of all the public institutions of the State, shall, at least ten days preceding each regular session of the General Assembly, severally report to the governor, who shall submit such reports to the General Assembly, together with the reports of the judges of the supreme court of defects in the Constitution and laws ; and the governor may at any time require information, in writing, under oath, from the officers of the Executive Department, and all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of their respective offices.

THE SEAL OF STATE

§ 22. There shall be a seal of the State, which shall be called the "Great Seal of the State of Illinois," which shall be kept by the secretary of state, and used by him, officially, as directed by law.

FEES AND SALARIES

§ 23. The officers named in this article shall receive for their services a salary, to be established by law, which shall not be increased or diminished during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this Constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. And all fees that may hereafter be payable by law for any services performed by any officer provided for in this article of the Constitution, shall be paid in advance into the State treasury.

DEFINITION AND OATH OF OFFICE

§ 24. An office is a public position created by the Constitution or law, continuing during the pleasure of the appointing power, or for a fixed time, with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.

§ 25. All civil officers except members of the General Assembly and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation.

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of — according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification.

ARTICLE VI

JUDICIAL DEPARTMENT

§ 1. The judicial powers, except as in this article is otherwise provided, shall be vested in one supreme court, circuit courts, county courts, justices of the peace, police magistrates, and in such courts as may be created by law in and for cities and incorporated towns.

SUPREME COURT

§ 2. The supreme court shall consist of seven judges, and shall have original jurisdiction in cases relating to the revenue, in *mandamus* and

habeas corpus, and appellate jurisdiction in all other cases. One of said judges shall be chief justice; four shall constitute a quorum, and the concurrence of four shall be necessary to every decision.

§ 3. No person shall be eligible to the office of judge of the supreme court unless he shall be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceeding his election, and be a resident of the district in which he shall be elected.

§ 4. Terms of the supreme court shall continue to be held in the present grand divisions at the several places now provided for holding the same; and until otherwise provided by law, one or more terms of said court shall be held, for the northern division, in the city of Chicago each year at such times as said court may appoint, whenever said city or the county of Cook shall appoint appropriate rooms therefor, and the use of a suitable library, without expense to the State. The judicial divisions may be altered, increased, or diminished in number, and the times and places of holding said court may be changed by law.

§ 5. The present grand divisions shall be preserved, and be denominated Southern, Central, and Northern, until otherwise provided by law. The State shall be divided into seven districts for the election of judges, and until otherwise provided by law, they shall be as follows:

First District.—The counties of St. Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Johnson, Alexander, Pulaski, and Massac.

Second District.—The counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Greene, Jersey, Calhoun, and Christian.

Third District.—The counties of Sangamon, Macon, Logan, De Witt, Piatt, Douglas, Champaign, Vermilion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie, and Tazewell.

Fourth District.—The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass, and Scott.

Fifth District.—The counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, LaSalle, Grundy, and Woodford.

Sixth District.—The counties of Whiteside, Carroll, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, DeKalb, Lee, Ogle, and Rock Island.

Seventh District.—The counties of Lake, Cook, Will, Kankakee, and DuPage.

The boundaries of the districts may be changed at the session of the General Assembly next preceeding the election for judges therein, and at

no other time; but whenever such alterations shall be made, the same shall be upon the rule of equality of population, as nearly as county boundaries will allow, and the districts shall be composed of contiguous counties, in as nearly compact form as circumstances will permit. The alteration of the districts shall not affect the tenure of office of any judge.

§ 6. At the time of voting on the adoption of this Constitution, one judge of the supreme court shall be elected by the electors thereof, in each of said districts numbered two, three, six, and seven, who shall hold his office for the term of nine years from the first Monday of June, in the year of our Lord one thousand eight hundred and seventy. The term of office of judges of the supreme court, elected after the adoption of this Constitution, shall be nine years; and on the first Monday of June of the year in which the term of any of the judges in the office at the adoption of this Constitution, or of the judges then elected, shall expire, and every nine years thereafter, there shall be an election for the successor or successors of such judges, in the respective districts wherein the term of such judges shall expire. The chief justice shall continue to act as such until the expiration of the term for which he was elected, after which the judges shall choose one of their number chief justice.

§ 7. From and after the adoption of this Constitution, the judges of the supreme court shall each receive a salary of four thousand dollars per annum, payable quarterly, until otherwise provided by law. And after said salaries shall be fixed by law, the salaries of the judges in office shall not be increased or diminished during the term for which said judges shall have been elected.

§ 8. Appeals and writs of error may be taken to the supreme court, held in the grand division in which the case is decided, or, by consent of the parties, to any other grand division.

§ 9. The supreme court shall appoint one reporter of its decisions, who shall hold his office for six years, subject to removal by the court.

§ 10. At the time of the election for representatives in the General Assembly, happening next preceding the expiration of the terms of office of the present clerks of said court, one clerk of said court for each division shall be elected, whose term of office shall be six years from said election, but who shall not enter upon the duties of his office until the expiration of the term of his predecessor, and every six years thereafter one clerk of said court for each division shall be elected.

APPELLATE COURTS

§ 11. After the year of our Lord one thousand eight hundred and seventy-four, inferior appellate courts, of uniform organization and jurisdiction, may be created in districts formed for that purpose, to which

such appeals and writs of error as the General Assembly may provide may be prosecuted from circuit or other courts, and from which appeals and writs of error shall lie to the supreme court, in all criminal cases, and cases in which a franchise, or freehold, or the validity of a statute is involved, and in such other cases as may be provided by law. Such appellate courts shall be held by such number of judges of the circuit courts, and at such times and places, and in such manner as may be provided by law; but no judge shall sit in review upon cases decided by him; nor shall said judges receive any additional compensation for such services.

CIRCUIT COURTS

§ 12. The circuit courts shall have original jurisdiction of all causes in law and equity, and such appellate jurisdiction as is or may be provided by law, and shall hold two or more terms each year in every county. The terms of office of judges of circuit courts shall be six years.

§ 13. The State, exclusive of the county of Cook and other counties having a population of one hundred thousand, shall be divided into judicial circuits, prior to the expiration of the terms of office of the present judges of the circuit courts. Such circuits shall be formed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business, territory, and population, and shall not exceed in number one circuit for every one hundred thousand of population in the State. One judge shall be elected for each of said circuits by the electors thereof. New circuits may be formed and the boundaries of circuits changed by the General Assembly, at its session next preceding the election for circuit judges, but at no other time. *Provided*, that the circuits may be equalized or changed at the first session of the General Assembly after the adoption of this Constitution. The creation, alteration, or change of any circuit shall not affect the tenure of office of any judge. Whenever the business of the circuit court of any one, or of two or more contiguous counties, containing a population exceeding fifty thousand, shall occupy nine months of the year, the General Assembly may make of such county, or counties, a separate circuit. Whenever additional circuits are created, the foregoing limitations shall be observed.

§ 14. The General Assembly shall provide for the times of holding court in each county; which shall not be changed, except by the General Assembly next preceding the general election for judges of said courts; but additional terms may be provided for in any county. The election for judges of the circuit courts shall be held on the first Monday in June, in the year of our Lord one thousand eight hundred and seventy-three, and every six years thereafter.

§ 15. The General Assembly may divide the State into judicial circuits of greater population and territory, in lieu of the circuits provided

for in section thirteen of this article, and provide for the election therein, severally, by the electors thereof, by general ticket, of not exceeding four judges, who shall hold the circuit courts in the circuit for which they shall be elected, in such manner as may be provided by law.

§ 16. From and after the adoption of this Constitution, judges of the circuit courts shall receive a salary of three thousand dollars per annum, payable quarterly, until otherwise provided by law. And after their salaries shall be fixed by law, they shall not be increased or diminished during the terms for which said judges shall be respectively elected; and from and after the adoption of this Constitution, no judge of the supreme or circuit court shall receive any other compensation, perquisites, or benefit, in any form whatsoever, nor perform any other than judicial duties to which may belong any emoluments.

§ 17. No person shall be eligible to the office of judge of the circuit or any inferior court, or to membership in the Board of County Commissioners, unless he shall be at least twenty-five years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the circuit, county, city, cities, or incorporated town in which he shall be elected.

COUNTY COURTS

§ 18. There shall be elected in and for each county, one county judge and one clerk of the county court, whose term of office shall be four years. But the General Assembly may create districts of two or more contiguous counties, in each of which shall be elected one judge, who shall take the place of and exercise the powers and jurisdiction of county judges in such districts. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate; settlement of estates of deceased persons; appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices; and in proceedings for the collection of taxes and assessments, and such other jurisdiction as may be provided for by general law.

§ 19. Appeals and writs of error shall be allowed from final determinations of county courts, as may be provided by law.

PROBATE COURTS

§ 20. The General Assembly may provide for the establishment of a probate court in each county having a population of over fifty thousand, and for the election of a judge thereof, whose term of office shall be the same as that of the county judge, and who shall be elected at the same time and in the same manner. Said courts, when established, shall have original jurisdiction of all probate matters, the settlement of estates

of deceased persons, the appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices, and in cases of sales of real estate of deceased persons for the payment of debts.

JUSTICES OF THE PEACE AND CONSTABLES

§ 21. Justices of the peace, police magistrates, and constables shall be elected in and for such districts as are, or may be, provided by law, and the jurisdiction of such justices of the peace and police magistrates shall be uniform.

STATE'S ATTORNEYS

§ 22. At the election for members of the General Assembly in the year of our Lord one thousand eight hundred and seventy-two, and every four years thereafter, there shall be elected a State's attorney in and for each county, in lieu of the State's attorneys now provided by law, whose term of office shall be four years.

COURTS OF COOK COUNTY

§ 23. The county of Cook shall be one judicial circuit. The circuit court of Cook County shall consist of five judges, until their number shall be increased, as herein provided. The present judge of the recorder's court of the city of Chicago, and the present judge of the circuit court of Cook County, shall be two of said judges, and shall remain in office for the terms for which they were respectively elected, and until their successors shall be elected and qualified. The superior court of Chicago shall be continued and called the "Superior Court of Cook County." The General Assembly may increase the number of said judges, by adding one to either of said courts for every additional fifty thousand inhabitants in said county over and above a population of four hundred thousand. The terms of office of the judges of said courts, hereafter elected, shall be six years.

§ 24. The judge having the shortest unexpired term shall be chief justice of the court of which he is a judge. In case there are two or more whose terms expire at the same time, it may be determined by lot which shall be chief justice. Any judge of either of said courts shall have all the powers of a circuit judge, and may hold the court of which he is a member. Each of them may hold a different branch thereof at the same time.

§ 25. The judges of the superior and circuit courts, and the State's attorney, in said county, shall receive the same salaries, payable out of the State treasury, as is or may be paid from said treasury to the circuit judges and State's attorneys of the State, and such further compensation, to be paid by the county of Cook, as is or may be provided by law.

Such compensation shall not be changed during their continuance in office.

§ 26. The recorder's court of the city of Chicago shall be continued, and shall be called the "Criminal Court of Cook County." It shall have the jurisdiction of a circuit court in all cases of criminal and *quasi* criminal nature, arising in the county of Cook, or that may be brought before said court pursuant to law; and all recognizances and appeals taken in said county in criminal and *quasi* criminal cases shall be returnable and taken to said court. It shall have no jurisdiction in civil cases, except in those on behalf of the people, and incident to such criminal or *quasi* criminal matters, and to dispose of unfinished business. The terms of said criminal court of Cook County shall be held by one or more of the judges of the circuit or superior court of Cook County, as nearly as may be in alternation, as may be determined by said judges, or provided by law. Said judges shall be *ex officio* judges of said court.

§ 27. The present clerk of the recorder's court of the city of Chicago shall be the clerk of the criminal court of Cook County during the term for which he was elected. The present clerks of the superior court of Chicago, and the present clerk of the circuit court of Cook County, shall continue in office during the terms for which they were respectively elected; and thereafter there shall be but one clerk of the superior court, to be elected by the qualified electors of said county, who shall hold his office for the term of four years, and until his successor is elected and qualified.

§ 28. All justices of the peace in the city of Chicago shall be appointed by the governor, by and with the advice and consent of the Senate (but only upon the recommendation of a majority of the judges of the circuit, superior, and county courts), and for such districts as are now or shall hereafter be provided by law. They shall hold their offices for four years, and until their successors have been commissioned and qualified; but they may be removed by summary proceeding, in the circuit or superior court, for extortion or other malfeasance. Existing justices of the peace and police magistrates may hold their offices until the expiration of their respective terms.

GENERAL PROVISIONS

§ 29. All judicial officers shall be commissioned by the governor. All laws relating to courts shall be general, and of uniform operation; and the organization, jurisdiction, powers, proceedings, and practice of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process, judgments, and decrees of such courts, severally, shall be uniform.

§ 30. The General Assembly may, for cause entered on the journals, upon due notice and opportunity of defence, remove from office any

judge, upon concurrence of three-fourths of all the members elected of each house. All other officers in this article mentioned shall be removed from office, on prosecution and final conviction, for misdemeanor in office.

§ 31. All judges of courts of record inferior to the supreme court shall, on or before the first day of June of each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their experience may suggest; and the judges of the supreme court shall, on or before the first day of January of each year, report in writing to the governor such defects and omissions in the Constitution and laws as they may find to exist, together with appropriate forms of bills to cure such defects and omissions in the laws. And the judges of the several circuit courts shall report to the next General Assembly the number of days they have held court in the several counties composing their respective circuits the preceding two years.

§ 32. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall, respectively, reside in the division, circuit, county, or district for which they may be elected or appointed. The terms of office of all such officers, where not otherwise prescribed in this article, shall be four years. All officers, where not otherwise provided for in this article, shall perform such duties and receive such compensation as is, or may be, provided by law. Vacancies in such elective offices shall be filled by election; but where the unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: Of judges, by the governor; of clerks of courts, by the court to which the office appertains, or by the judge or judges thereof; and of all such other offices, by the Board of Supervisors, or Board of County Commissioners, in the county where the vacancy occurs.

§ 33. All process shall run: *In the name of the People of the State of Illinois*; and all prosecutions shall be carried on: *In the name and by the authority of the People of the State of Illinois*; and conclude: *Against the peace and dignity of the same*. "Population," wherever used in this article, shall be determined by the next preceding census of this State, or of the United States.

ARTICLE VII

SUFFRAGE

§ 1. Every person having resided in this State one year, in the county ninety days, and in the election district thirty days next preceding any election therein, who was an elector in this State on the first day of April, in the year of our Lord one thousand eight hundred and forty-eight, or obtained a certificate of naturalization, before any court of record in this State, prior to the first day of January, in the year of our

Lord one thousand eight hundred and seventy, or who shall be a male citizen of the United States, above the age of twenty-one years, shall be entitled to vote at such election.

§ 2. All votes shall be by ballot.

§ 3. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of election, except in time of war or public danger.

§ 4. No elector shall be deemed to have lost his residence in this State by reason of his absence on the business of the United States, or of this State, or in the military or naval service of the United States.

§ 5. No soldier, seaman, or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed therein.

§ 6. No person shall be elected or appointed to any office in this State, civil, or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding the election or appointment.

§ 7. The General Assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crimes.

ARTICLE VIII

EDUCATION

§ 1. The General Assembly shall provide a thorough and efficient system of free schools, whereby all children of this State may receive a good common school education.

§ 2. All lands, moneys, or other property, donated, granted, or received for school, college, seminary, or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

§ 3. Neither the General Assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church, or for any sectarian purpose.

§ 4. No teacher, State, county, township, or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus, or furniture, used or to be used, in any school in this State, with which

such officer or teacher may be connected, under such penalties as may be provided by the General Assembly.

§ 5. There may be a county superintendent of schools in each county whose qualifications, powers, duties, compensation, and time and manner of election, and term of office, shall be prescribed by law.

ARTICLE IX

REVENUE

§ 1. The General Assembly shall provide such revenue as may be needful by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its property—such value to be ascertained by some person or persons, to be elected or appointed in such manner as the General Assembly shall direct, and not otherwise; but the General Assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, shownien, jugglers, inn-keepers, grocery-keepers, liquor-dealers, toll-bridges, ferries, insurance, telegraph and express interests or business, venders of patents, and persons or corporations owning or using franchises and privileges, in such manner as it shall, from time to time, direct by general law, uniform as to the class upon which it operates.

§ 2. The specification of the objects and subjects of taxation shall not deprive the General Assembly of the power to require other subjects or objects to be taxed, in such manner as may be consistent with the principles of taxation fixed in this Constitution.

§ 3. The property of the State, counties, and other municipal corporations, both real and personal, and such other property, as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery, and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate incumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property.

§ 4. The General Assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments, for State, county, municipal, or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer of the county, having authority to receive State and county taxes; and there shall be no sale of said property for any of said taxes or assessments but by said officer, upon the order or judgment of some court of record.

§ 5. The right of redemption from all sales of real estate, for the non-payment of taxes or special assessments of any character whatever,

shall exist in favor of owners and persons interested in such real estate, for a period of not less than two years from such sales thereof. And the General Assembly shall provide, by law, for reasonable notice to be given to the owners or parties interested, by publication or otherwise, of the fact of the sale of the property for such taxes or assessments, and when the time of redemption shall expire: *Provided*, that occupants shall in all cases be served with personal notice before the time of redemption expires.

*§ 6. The General Assembly shall have no power to release or discharge any county, city, township, town, or district, whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

§ 7. All taxes levied for State purposes shall be paid into the State treasury.

§ 8. County authorities shall never assess taxes, the aggregate of which shall exceed seventy-five cents per one hundred dollars' valuation, except for the payment of indebtedness existing at the adoption of this Constitution, unless authorized by a vote of the people of the county.

§ 9. The General Assembly may vest the corporate authorities of cities, towns, and villages, with power to make local improvements by special assessment or by special taxation of contiguous property, or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such taxes shall be uniform in respect to persons and property, within the jurisdiction of the body imposing the same.

§ 10. The General Assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes, but shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property, within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation.

§ 11. No person who is in default, as collector or custodian of money or property belonging to a municipal corporation, shall be eligible to any office in or under such corporation. The fees, salary, or compensation of no municipal officer who is elected or appointed for a definite term of office, shall be increased or diminished during such term.

§ 12. No county, city, township, school district, or other municipal corporation, shall be allowed to become indebted in any manner or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness. Any county,

city, school district, or other municipal corporation, incurring any indebtedness as aforesaid, shall before, or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same. This section shall not be construed to prevent any county, city, township, school district, or other municipal corporation, from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this Constitution in pursuance of any law providing therefor.

§ 13.* The corporate authorities of the city of Chicago are hereby authorized to issue interest-bearing bonds of said city to an amount not exceeding five million dollars, at a rate of interest not to exceed five per centum per annum, the principal payable within thirty years from the date of their issue, and the proceeds thereof shall be paid to the treasurer of the World's Columbian Exposition, and used and disbursed by him under the direction and control of the directors, in aid of the World's Columbian Exposition, to be held in the city of Chicago, in pursuance of an act of Congress of the United States.

Provided, that if at an election for the adoption of this amendment a majority of the votes cast within the limits of the city of Chicago shall be against its adoption, then no bonds shall be issued under this amendment.

And said corporate authorities shall be repaid as large a proportionate amount of the aid given by them as is repaid to the stockholders on the sums subscribed and paid by them, and the money so received shall be used in the redemption of the bonds issued as aforesaid, provided that said authorities may take in whole or in part of the sum coming to them any permanent improvements placed on land held or controlled by them.

And provided further, that no such indebtedness so created shall in any part thereof be paid by the State, or from any State revenue, tax, or fund, but the same shall be paid by the said city of Chicago alone.

ARTICLE X

COUNTIES

§ 1. No new county shall be formed or established by the General Assembly, which will reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided.

§ 2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the

* Amendment of 1890.

county, nor unless a majority of all the legal voters of the county, voting on the question, shall vote for the same.

§ 3. There shall be no territory stricken from any county, unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of the majority of the voters of the county to which it is proposed to be added. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for and obliged to pay its proportion of the indebtedness of the county from which it has been taken.

COUNTY SEATS

§ 4. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and three-fifths of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point; and no person shall vote on such question who has not resided in the county six months, and in the election precinct ninety days next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in ten years, to a vote of the people. But when an attempt is made to remove a county seat to a point nearer to the centre of a county, then a majority vote only shall be necessary.

COUNTY GOVERNMENT

§ 5. The General Assembly shall provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine, and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of the fiscal concerns of the said county by the Board of County Commissioners, may be dispensed with, and the affairs of said county may be transacted in such manner as the General Assembly may provide. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that now is or may be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, then such organization shall cease in said county; and all laws in force in relation to counties not having township organization, shall immediately take effect and be in force in such county. No two townships shall have the same name, and the day of holding the annual township meeting shall be uniform throughout the State.

§ 6. At the first election of county judges under this Constitution, there shall be elected in each of the counties in this State, not under

township organization, three officers, who shall be styled "The Board of County Commissioners," who shall hold sessions for the transaction of county business as shall be provided by law. One of said commissioners shall hold his office for one year, one for two years, and one for three years, to be determined by lot; and every year thereafter one such officer shall be elected in each of said counties for the term of three years.

§ 7. The county affairs of Cook County shall be managed by a Board of Commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago, and five from towns outside of said city, in such manner as may be provided by law.

COUNTY OFFICERS AND THEIR COMPENSATION

§ 8.* In each county there shall be elected the following county officers, at the general election to be held on the Tuesday after the first Monday in November, A. D. 1882: A county judge, county clerk, sheriff, and treasurer, and at the election to be held on the Tuesday after the first Monday in November, A. D. 1884, a coroner and clerk of the circuit court (who may be *ex officio* recorder of deeds, except in counties having 60,000 and more inhabitants, in which counties a recorder of deeds shall be elected at the general election in 1884). Each of said officers shall enter upon the duties of his office, respectively on the first Monday of December after his election, and they shall hold their respective offices for the term of four years, and until their successors are elected and qualified: *Provided*, that no person having once been elected to the office of sheriff or treasurer shall be eligible to re-election to said office for four years after the expiration of the term for which he shall have been elected.

§ 9. The clerks of all the courts of record, the treasurer, sheriff, coroner, and recorder of deeds of Cook County, shall receive as their only compensation for their services, salaries to be fixed by law, which shall in no case be as much as the lawful compensation of a judge of the circuit court of said county, and shall be paid, respectively, only out of the fees of the office actually collected. All fees, perquisites, and emoluments (above the amounts of said salaries) shall be paid into the county treasury. The number of the deputies and assistants of such officers shall be determined by rule of the circuit court, to be entered of record, and their compensation shall be determined by the county board.

§ 10. The county board, except as provided in section nine of this article, shall fix the compensation of all county officers, with the amount of their necessary clerk hire, stationery, fuel, and other expenses, and in all cases where fees are provided for, said compensation shall be paid only out of, and shall in no instance exceed, the fees actually collected;

* As amended in 1880.

they shall not allow either of them more per annum than fifteen hundred dollars, in counties not exceeding twenty thousand inhabitants; two thousand dollars, in counties containing twenty thousand and not exceeding thirty thousand inhabitants; twenty-five hundred dollars, in counties containing thirty thousand and not exceeding fifty thousand inhabitants; three thousand dollars, in counties containing fifty thousand and not exceeding seventy thousand inhabitants; thirty-five hundred dollars, in counties containing seventy thousand and not exceeding one hundred thousand inhabitants; and four thousand dollars, in counties containing one hundred thousand and not exceeding two hundred and fifty thousand inhabitants; and not more than one thousand dollars additional compensation for each additional one hundred thousand inhabitants. *Provided*, that the compensation of no officer shall be increased or diminished during his term of office. All fees or allowances by them received, in excess of their said compensation, shall be paid into the county treasury.

§ 11. The fees of township officers, and of each class of county officers, shall be uniform in the class of counties to which they respectively belong. The compensation herein provided for shall apply only to officers hereafter elected, but all fees established by special laws shall cease at the adoption of this Constitution, and such officers shall receive only such fees as are provided by general law.

§ 12. All laws fixing the fees of State, county, and township officers, shall terminate with the terms respectively of those who may be in office at the meeting of the first General Assembly after the adoption of this Constitution; and the General Assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered. But the General Assembly may, by general law, classify the counties by population into not more than three classes, and regulate the fees according to class. This article shall not be construed as depriving the General Assembly of the power to reduce the fees of existing officers.

§ 13. Every person who is elected or appointed to any office in this State, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

ARTICLE XI

CORPORATIONS

§ 1. No corporation shall be created by special laws, or its charter extended, changed, or amended, except those for charitable, educational, penal, or reformatory purposes, which are to be and remain under the patronage and control of the State, but the General Assembly shall pro-

vide, by general laws, for the organization of all corporations hereafter to be created.

§ 2. All existing charters or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within ten days from the time this Constitution takes effect, shall thereafter have no validity or effect whatever.

§ 3. The General Assembly shall provide, by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors and managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, shall equal, or distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

§ 4. No law shall be passed by the General Assembly, granting the right to construct and operate a street railroad within any city, town, or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

BANKS

§ 5. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint stock company or association for banking purposes, now created, or to be hereafter created. No act of the General Assembly authorizing or creating corporations or associations, with banking powers, whether of issue, deposit, or discount, nor amendments thereto, shall go into effect, or in any manner be in force, unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such an election for or against such law.

§ 6. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

§ 7. The suspension of specie payments by banking institutions, on their circulation, created by the laws of this State, shall never be permitted or sanctioned. Every banking association now, or which may hereafter be, organized under the laws of this State, shall make and publish a full and accurate quarterly statement of its affairs (which shall be certified to, under oath, by one or more of its officers), as may be provided by law.

§ 8. If a general banking law shall be enacted, it shall provide for

the registry and countersigning, by an officer of State, of all bills or paper credit, designed to circulate as money, and require security, to the full amount thereof, to be deposited with the State treasurer, in United States or Illinois State stocks, to be rated at ten per cent. below their par value; and in case of a depreciation of said stocks to the amount of ten per cent. below par, the bank or banks owning said stocks shall be required to make up said deficiency, by depositing additional stocks. And said law shall also provide for the recording of the names of all stockholders in such corporation, the amount of stock held by each, the time of any transfer thereof, and to whom such transfer is made.

RAILROADS

§ 9. Every railroad corporation organized or doing business in this State, under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for public inspection, books, in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railway corporation shall, annually, make a report, under oath, to the auditor of public accounts, or some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. And the General Assembly shall pass laws enforcing by suitable penalties the provisions of this section.

§ 10. The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the General Assembly shall pass no law exempting any such property from execution and sale.

§ 11. No railroad corporation shall consolidate its stock, property, or franchise with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given, of at least sixty days, to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation, now incorporated or hereafter to be incorporated by the laws of this State, shall be citizens and residents of this State.

§ 12. Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and shall be free to all persons, for the transportation of their persons and property

thereon, under such regulations as may be prescribed by law. And the General Assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State.

§ 13. No railroad corporation shall issue any stock or bonds, except for money, labor, or property, actually received, and applied to the purpose for which such corporation was created; and all stock dividends, and other fictitious increase of capital stock or indebtedness of any such corporation, shall be void. The capital stock of no railroad corporation shall be increased for any purpose, except upon giving sixty days' public notice, in such manner as may be provided by law.

§ 14. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the General Assembly, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

§ 15. The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws, by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

ARTICLE XII

MILITIA

§ 1. The militia of the State of Illinois shall consist of all able-bodied male persons, resident in the State, between the ages of eighteen and forty-five, except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this State.

§ 2. The General Assembly, in providing for the organization, equipment, and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

§ 3. All militia officers shall be commissioned by the governor, and may hold their commissions for such time as the General Assembly may provide.

§ 4. The militia shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and elections, and in going to and returning from the same.

§ 5. The military records, banners, and relics of the State shall be preserved as an enduring memorial of the patriotism and valor of Illi-

nois, and it shall be the duty of the General Assembly to provide by law for the safe keeping of the same.

§ 6. No person having conscientious scruples against bearing arms, shall be compelled to do militia duty in time of peace. *Provided*, such person shall pay an equivalent for such exemption.

ARTICLE XIII

WAREHOUSES

§ 1. All elevators or storehouses where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses.

§ 2. The owner, lessee, or manager of each and every public warehouse situated in any town or city of not less than one hundred thousand inhabitants, shall make weekly statements under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding therefor; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain shipped in separate lots, shall not be mixed with inferior or superior grades, without the consent of the owner or consignee thereof.

§ 3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouse, in regard to such property.

§ 4. All railroad companies and other common carriers on railroads shall weigh or measure grain at points where it is shipped, and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof, at the place of destination.

§ 5. All railroad companies receiving and transporting grain in bulk or otherwise shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided such consignee or the elevator or public warehouse can be reached by any track owned, leased, or used, or which can be used, by such railroad companies; and all railroad companies shall permit connections to be made with their track, so that any such consignee, and any public warehouse, coal bank, or coal yard, may be reached by the cars on said railroad.

§ 6. It shall be the duty of the General Assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the Constitution, which shall be liberally construed so as to protect producers and shippers. And the enumeration of the remedies herein named shall not be construed to deny to the General Assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common law remedies.

§ 7. The General Assembly shall pass laws for the inspection of grain, for the protection of producers, shippers, and receivers of grain and produce.

ARTICLE XIV

AMENDMENTS TO THE CONSTITUTION

§ 1. Whenever two-thirds of the members of each house of the General Assembly shall, by a vote entered upon the journals thereof, concur that a convention is necessary to revise, alter, or amend the Constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a convention, the General Assembly shall, at the next session, provide for a convention, to consist of double the number of members of the Senate, to be elected in the same manner, at the same places, and in the same districts. The General Assembly shall, in the act calling the convention, designate the day, hour, and place of its meeting, fixing the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding, the members shall take an oath to support the Constitution of the United States, and of the State of Illinois, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the General Assembly. Said convention shall meet within three months after such election, and prepare such revision, alteration, or amendments of the Constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection, at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved, by a majority of the electors voting at the election, no such revision, alteration, or amendments shall take effect.

§ 2. Amendments to this Constitution may be proposed in either house of the General Assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with the yeas and nays of each house

thereon, shall be entered in full on their respective journals, and said amendments shall be submitted to the electors of this State for adoption or rejection, at the next election of members of the General Assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceding the election, and if a majority of the electors voting at said election shall vote for the proposed amendments, they shall become a part of this Constitution. But the General Assembly shall have no power to propose amendments to more than one article of this Constitution at the same session, nor to the same article oftener than once in four years.

SECTIONS SEPARATELY SUBMITTED

ILLINOIS CENTRAL RAILROAD

No contract, obligation, or liability whatever, of the Illinois Central Railroad Company, to pay any money into the State treasury, nor any lien of the State upon, or right to tax, property of said company, in accordance with the provisions or the charter of said company, approved February tenth, in the year of our Lord one thousand eight hundred and fifty-one, shall ever be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by legislative or other authority; and all moneys derived from said company, after the payment of the State debt, shall be appropriated and set apart for the payment of the ordinary expenses of the State government, and for no other purposes whatever.

MINORITY REPRESENTATION

(See Sections 7 and 8, Article 4)

MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS

No county, city, town, township, or other municipality shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of such corporation. *Provided, however,* that the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized, under existing laws, by a vote of the people of such municipalities prior to such adoption.

CANAL

The Illinois and Michigan Canal shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the State, at a general election, and have been approved by a majority of all the votes polled at such election.

The General Assembly shall never loan the credit of the State, or make appropriations from the treasury thereof, in aid of railroads or canals. *Provided*, that any surplus earnings of any canal may be appropriated for its enlargement or extension.

CONVICT LABOR

Hereafter it shall be unlawful for the commissioners of any penitentiary, or other reformatory institution in the State of Illinois, to let by contract to any person or persons, or corporations, the labor of any convict confined within said institution.

SCHEDULE

The so-called "Schedule" of a Constitution makes a series of provisions for the change from government under the former Constitution to government under the new one. As these provisions are necessarily temporary in their character, they are omitted in this place. The Revised Statutes contain them in full.

ANALYSIS OF THE ILLINOIS CONSTITUTION

TABLE I

- I. THE PREAMBLE (= the enacting clause).
- II. THE LAND AND ITS BOUNDARIES (Art. I.).
- III. SUFFRAGE (= definition of the political people) (Art. VII.).
- IV. THE STRUCTURE AND FUNCTIONS OF GOVERNMENT (Arts. III.-VI., VIII.-XIII.).
 - (1) The General State Government (see Table II.).
 - (2) Local Government (see Table III.).
- V. THE BILL OF RIGHTS (= general restrictions on the powers of government) (Art. II.).
- VI. AMENDMENTS (Art. XIV.).

TABLE II

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- I. DISTRIBUTION OF POWERS (Art. III.).
- II. THE LEGISLATURE (Art. IV.).
 - (1) Structure (Art. IV., §§ 1, 2, 6-8).
 - (2) Qualifications for membership, and disqualifications of members (Art. IV., §§ 3-5, 15).
 - (3) Privileges of members (Art. IV., §§ 14, 21).
 - (4) Powers and duties of the separate houses (Art. IV., §§ 9, 10, 24).
 - (5) Procedure (Art. IV., §§ 11-13).
 - (6) Powers and duties in general (Art. IV., §§ 18, 25, 29-32).
 - (7) Restrictions (Art. IV., §§ 16-20, 22, 23, 25-28, 33).

- (8) Special fields of legislation :
 - (a) Revenue (Art. IX.).
 - (b) Education (Art. VIII.).
 - (c) Corporations (Art. XI., also second separate section).
 - (d) Warehouses (Art. XIII.).
 - (e) Public works (first and third separate sections).

III. THE EXECUTIVE (Art. V.).

- (1) Structure (Art. V., §§ 1-4, 24).
- (2) The governor :
 - (a) Qualifications (Art. V., § 5).
 - (b) Powers and duties (Art. V., §§ 6-14, 16).
- (3) The lieutenant-governor (Art. V., §§ 1, 17-19).
- (4) The executive departments :
 - (a) Structure (Art. V., §§ 1-4, 20).
 - (b) Powers and duties (Art. V., §§ 20-22).
- (5) The State military (Art. V., § 14 ; Art. XII.).
- (6) Privileges of officers (Art. V., § 23).
- (7) Responsibility of officers (Art. V., § 15 ; Art. IV., § 24).

IV. THE JUDICIARY (Art. VI.).

- (1) Structure of courts (Art. VI., §§ 1-6, 9-11, 13-15, 17, 18, 20-24, 26-29, 32, 33).
- (2) Jurisdiction of courts (Art. VI., §§ 8, 12, 16, 18-21).
- (3) Powers and duties of judges (Art. VI., §§ 31, 32).
- (4) Privileges of judges (Art. VI., §§ 7, 16, 25, 32).
- (5) Responsibility of judges (Art. VI., § 30).

TABLE III

LOCAL GOVERNMENT

I. COUNTIES (Art. X.).

- (1) Organization (Art. X., §§ 1-3.)
- (2) County seats (Art. X., § 4).
- (3) County government (Art. X., §§ 5-7).
- (4) County officers (Art. X., §§ 8-13).

II. TOWNS (Art. X., § 5 ; Art. IV., § 22).

III. MUNICIPAL CORPORATIONS (Art. XI., §§ 1, 2, 4).

IV. RESTRICTIONS ON LOCAL AUTHORITIES (second separate section).

II. GOVERNORS OF ILLINOIS

THE NORTHWEST TERRITORY

ARTHUR ST. CLAIR.

INDIANA TERRITORY

WILLIAM HENRY HARRISON.

ILLINOIS TERRITORY

NINIAN EDWARDS * (1809-1818).

THE STATE OF ILLINOIS

Under the Constitution of 1818 the election was held on the first Monday in August, and the governor's term began on the first Monday in December. Under the Constitution of 1848 the first election was held on the Tuesday next after the first Monday in November, 1848, and thereafter an election was to be held quadrennially. The term of the first governor elected was to begin on the second Monday in January, 1849. The term was still four years. The Constitution of 1870 made no changes.

SHADRACH BOND.....	1818-1822
EDWARD COLES.....	1822-1826
NINIAN EDWARDS.....	1826-1830
JOHN REYNOLDS.....	1830-1834
W. L. D. EWING †.....	1834
JOSEPH DUNCAN.....	1834-1838
THOMAS CARLIN	1838-1842
THOMAS FORD.....	1842-1846

* John Boyle, of Kentucky, was appointed, but declined.

† In 1834 there was a vacancy in the office of lieutenant-governor, and W. L. D. Ewing, a senator, was chosen president of the Senate. Governor Reynolds was elected to Congress to fill out an unexpired term, and set out for Washington in November. Mr. Ewing, accordingly, became acting-governor, an office which he held for fifteen days.

AUGUSTUS C. FRENCH*	{ 1846-1849
	{ 1849-1853
JOEL A. MATTESON.....	1853-1857
WILLIAM H. BISSELL.....	1857-1861
RICHARD YATES.....	1861-1865
RICHARD J. OGLESBY.....	1865-1869
JOHN M. PALMER.....	1869-1873
RICHARD J. OGLESBY.....	1873
JOHN L. BEVERIDGE.....	1873-1877
SHELBY M. CULLOM.....	{ 1877-1881
	{ 1881-1883
JOHN M. HAMILTON.....	1883-1885
RICHARD J. OGLESBY.....	1885-1889
JOSEPH W. FIFER.....	1889-1893
JOHN P. ALTGELD.....	1893-1897
JOHN W. TANNER....	1897-1901

*See note at head of list of governors of the State.

III. PRESIDENTS OF THE UNITED STATES

GEORGE WASHINGTON	Virginia.....	1789-1797
JOHN ADAMS.....	Massachusetts	1797-1801
THOMAS JEFFERSON	Virginia	1801-1809
JAMES MADISON.....	Virginia	1809-1817
JAMES MONROE	Virginia	1817-1825
JOHN QUINCY ADAMS.....	Massachusetts ...	1825-1829
ANDREW JACKSON.....	Tennessee	1829-1837
MARTIN VAN BUREN.....	New York.....	1837-1841
WILLIAM HENRY HARRISON*	Ohio.....	1841
JOHN TYLER †	Virginia	1841-1845
JAMES KNOX POLK.....	Tennessee.....	1845-1849
ZACHARY TAYLOR *	Louisiana	1849-1850
MILLARD FILLMORE †....	New York.....	1850-1853
FRANKLIN PIERCE.....	New Hampshire.....	1853-1857
JAMES BUCHANAN.....	Pennsylvania	1857-1861
ABRAHAM LINCOLN *	Illinois.....	1861-1865
ANDREW JOHNSON †	Tennessee.....	1865-1869
ULYSSES SIMPSON GRANT	Illinois.	1869-1877
RUTHERFORD BIRCHARD HAYES....	Ohio.....	1877-1881
JAMES ABRAM GARFIELD *.....	Ohio.	1881
CHESTER ALLAN ARTHUR †	New York.....	1881-1885
GROVER CLEVELAND.....	New York.....	1885-1889
BENJAMIN HARRISON	Indiana..	1889-1893
GROVER CLEVELAND.....	New York.....	1893-1897
WILLIAM MCKINLEY	Ohio.....	1897

* Died in office.

† Succeeded as Vice-President on the death of the President.

IV. ELECTORAL VOTES CAST BY ILLINOIS

YEAR ELECTORS
WERE CHOSEN

1820.	JAMES MONROE *	3
1824.	ANDREW JACKSON	2
1824.	JOHN QUINCY ADAMS †...	1
1828.	ANDREW JACKSON *	3
1832.	ANDREW JACKSON *	5 †
1836.	MARTIN VAN BUREN *	5
1840.	MARTIN VAN BUREN	5
1844.	JAMES K. POLK *	9 †
1848.	LEWIS CASS	9
1852.	FRANKLIN PIERCE *	11 †
1856.	JAMES BUCHANAN *	11
1860.	ABRAHAM LINCOLN *	11
1864.	ABRAHAM LINCOLN *	11
1868.	ULYSSES S. GRANT *	11
1872.	ULYSSES S. GRANT *	21 †
1876.	RUTHERFORD B. HAYES *	21
1880.	JAMES A. GARFIELD *	21
1884.	JAMES G. BLAINE	22 †
1888.	BENJAMIN HARRISON *	22
1892.	GROVER CLEVELAND *	24 †
1896.	WILLIAM MCKINLEY *	24

* Elected.

† Elected by the House of Representatives, as there was no choice by the electors.

‡ Number of electors increased in accordance with congressional apportionment.

V. THE CONGRESSIONAL DISTRICTS OF ILLINOIS

(Apportionment of 1893)

First—The towns of Rich, Bloom, Orland, Bremen, Thornton, Calumet, and Worth, in Cook County, and the fourth ward east of the centre line of Wentworth Avenue, the third ward, the thirty-first ward, the thirty-second ward, the thirty-third ward, and the thirty-fourth ward, in Chicago.

Second—The towns of Lemont, Palos, Lyons, Proviso, Riverside, Cicero, Leyden, Norwood Park, Maine, Elk Grove, Schaumburg, and Hanover, in Cook County, and the tenth, twenty-eighth, twenty-ninth, and thirtieth wards of the city of Chicago.

Third—First, second, fifth, sixth, seventh wards, and that part of the fourth ward west of the centre line of Wentworth Avenue, all in the city of Chicago.

Fourth—Eighth, ninth, twelfth, and nineteenth wards of the city of Chicago.

Fifth—Eleventh, thirteenth, sixteenth, eighteenth, and seventeenth wards of the city of Chicago.

Sixth—Twentieth, twenty-first, twenty-second, twenty-third, and twenty-fourth wards, also that part of the twenty-fifth ward south of the centre line of Diversey Street and west of the centre line of Halsted Street, and that part of the twenty-sixth ward south of the centre line of Belmont Avenue, all in the city of Chicago.

Seventh—Fourteenth, fifteenth, and twenty-seventh wards, the twenty-fifth ward, except that part south of the centre line of Diversey Street and west of the centre line of Halsted Street; that part of the twenty-sixth ward north of the centre line of Belmont Avenue, in the city of Chicago; also the towns of Evanston, Niles, New Trier, Northfield, Wheeling, Palatine, and Barrington, in Cook County, and the county of Lake.

Eighth—McHenry, De Kalb, Kane, Du Page, Kendall, and Grundy counties.

Ninth—Boone, Winnebago, Stephenson, Jo Daviess, Carroll, Ogle, and Lee.

Tenth—Whiteside, Rock Island, Mercer, Henry, Knox, and Stark.

Eleventh—Bureau, La Salle, Livingston, and Woodford.

Twelfth—Will, Kankakee, Iroquois, and Vermilion.

Thirteenth—Ford, McLean, De Witt, Piatt, Champaign, and Douglas.

Fourteenth—Putnam, Marshall, Peoria, Fulton, Tazewell, and Mason.

Fifteenth—Henderson, Warren, Hancock, McDonough, Adams, Brown, and Schuyler.

Sixteenth—Cass, Morgan, Scott, Pike, Green, Macoupin, Calhoun, and Jersey.

Seventeenth—Menard, Logan, Sangamon, Macon, and Christian.

Eighteenth—Madison, Montgomery, Bond, Fayette, Shelby, and Moultrie.

Nineteenth—Coles, Edgar, Clark, Cumberland, Effingham, Jasper, Crawford, Richland, and Lawrence.

Twentieth—Clay, Jefferson, Wayne, Hamilton, Edwards, Wabash, Franklin, White, Gallatin, and Hardin.

Twenty-first—Marion, Clinton, Washington, St. Clair, Monroe, Randolph, and Perry.

Twenty-second—Jackson, Union, Alexander, Pulaski, Johnson, Williamson, Saline, Pope, and Massac.

VI. THE STATE SENATORIAL DISTRICTS OF ILLINOIS

(Apportionment of 1898)

First—The first, second, and fifth wards, in the city of Chicago, in the county of Cook.

Second—The tenth ward and that part of the twelfth ward lying west of the centre line of Robey Street, in the city of Chicago, in the county of Cook.

Third—The thirty-first, thirty-third, and the thirty-fourth wards in the city of Chicago, in the county of Cook.

Fourth—The twenty-eighth and twenty-ninth wards and that part of the sixth ward lying west of the south fork of the south branch of the Chicago river, in the city of Chicago, and the town of Cicero, all in the county of Cook.

Fifth—The thirtieth and thirty-second wards, in the city of Chicago, in the county of Cook.

Sixth—The fifteenth, twenty-sixth, and twenty-seventh wards, in the city of Chicago, in the county of Cook.

Seventh—The towns of Thornton, Bloom, Rich, Bremen, Orland, Lemont, Palos, Worth, Lyons, Proviso, Leyden, Elk Grove, Schaumburg, Hanover, Barrington, Palatine, Wheeling, Northfield, New Trier, and Riverside, and those parts of the towns of Calumet, Norwood Park, Maine, Niles, and Evanston lying outside of the city of Chicago, all in the county of Cook.

Eighth—The counties of Lake, McHenry, and Boone.

Ninth—The third and fourth wards and that part of the sixth ward lying east of the south fork of the south branch of the Chicago River, in the city of Chicago, in the county of Cook.

Tenth—The counties of Winnebago and Ogle.

Eleventh—The thirteenth and fourteenth wards, in the city of Chicago, in the county of Cook.

Twelfth—The counties of Stephenson, Jo Daviess, and Carroll.

Thirteenth—The seventh and eighth wards, in the city of Chicago, in the county of Cook.

Fourteenth—The county of Kane.

Fifteenth—The ninth ward and that part of the eleventh ward lying south of the centre line of Lake Street, and west of the centre lines of Sheldon Street and Loomis Street, and that part of the twelfth ward lying east of the centre line of Robey Street, in the city of Chicago, in the county of Cook.

Sixteenth—The counties of Kankakee and Iroquois.

Seventeenth—The sixteenth and seventeenth wards, and that part of the eleventh ward lying north of the centre line of Lake Street, in the city of Chicago, in the county of Cook.

Eighteenth—The counties of Ford, Livingston, and Woodford.

Nineteenth—The eighteenth and nineteenth wards and that part of the eleventh ward lying south of the centre line of Lake Street and east of the centre line of Sheldon Street and Loomis Street, in the city of Chicago, in the county of Cook.

Twentieth—The counties of Knox, Marshall, Putnam, and Stark.

Twenty-first—The twenty-first, twenty-second, and twenty-fifth wards in the city of Chicago, in the county of Cook.

Twenty-second—The counties of McLean and Tazewell.

Twenty-third—The twentieth, twenty-third, and twenty-fourth wards, in the city of Chicago, in the county of Cook.

Twenty-fourth—The county of Peoria.

Twenty-fifth—The counties of Will and Du Page.

Twenty-sixth—The counties of McDonough, Warren, and Fulton.

Twenty-seventh—The county of La Salle.

Twenty-eighth—The counties of Hancock, Henderson, and Mercer.

Twenty-ninth—The counties of De Kalb, Kendall, and Grundy.

Thirtieth—The counties of Champaign, Piatt, and Moultrie.

Thirty-first—The counties of Bureau, Whiteside, and Lee.

Thirty-second—The counties of Mason, Menard, Cass, Brown, and Schuyler.

Thirty-third—The counties of Rock Island and Henry.

Thirty-fourth—The counties of Morgan, Scott, and Pike.

Thirty-fifth—The counties of Vermilion and Edgar.

Thirty-sixth—The counties of Green, Macoupin, Jersey, and Calhoun.

Thirty-seventh—The county of Adams.

Thirty-eighth—The counties of Madison and Bond.

Thirty-ninth—The county of Sangamon.

Fortieth—The counties of Douglas, Coles, and Clark.

Forty-first—The counties of Macon, De Witt, and Logan.

Forty-second—The counties of Fayette, Effingham, Clinton, and Marion.

Forty-third—The counties of Christian, Montgomery, and Shelby.

Forty-fourth—The counties of Clay, Wayne, Edwards, Wabash, and Lawrence.

Forty-fifth—The counties of Jasper, Crawford, Cumberland, and Richland.

Forty-sixth—The counties of Jefferson, Hamilton, and White.

Forty-seventh—The counties of Washington, Perry, Franklin, and Williamson.

Forty-eighth—The counties of Monroe, Randolph, and Jackson.

Forty-ninth—The county of St. Clair.

Fiftieth—The counties of Union, Alexander, Pulaski, and Massac.

Fifty-first—The counties of Johnson, Pope, Hardin, Gallatin, and Saline.

VII. THE ELECTION DISTRICTS OF THE SUPREME COURT OF ILLINOIS

First District—Counties of St. Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Johnson, Alexander, Pulaski, and Massac.

Second District—Counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Green, Jersey, Calhoun, and Christian.

Third District—The counties of Sangamon, Macon, Logan, De Witt, Piatt, Douglas, Champaign, Vermilion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie, and Tazewell.

Fourth District—The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass, and Scott.

Fifth District—Counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, La Salle, Grundy, and Woodford.

Sixth District—Counties of Whiteside, Carroll, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, De Kalb, Lee, Ogle, and Rock Island.

Seventh District—Counties of Lake, Cook, Will, Kankakee, and Du Page.

VIII. THE ILLINOIS JUDICIAL CIRCUITS

(Act of 1897)

First Circuit—The counties of Alexander, Pulaski, Massac, Pope, Johnson, Union, Jackson, Williamson, and Saline.

Second Circuit—The counties of Hardin, Gallatin, White, Hamilton, Franklin, Wabash, Edwards, Wayne, Jefferson, Richland, Lawrence, and Crawford.

Third Circuit—The counties of Randolph, Monroe, St. Clair, Madison, Bond, Washington, and Perry.

Fourth Circuit—The counties of Clinton, Marion, Clay, Fayette, Effingham, Jasper, Montgomery, Shelby, and Christian.

Fifth Circuit—The counties of Vermilion, Edgar, Clark, Cumberland, and Coles.

Sixth Circuit—The counties of Champaign, Douglas, Moultrie, Macon, De Witt, and Piatt.

Seventh Circuit—The counties of Sangamon, Macoupin, Morgan, Scott, Greene, and Jersey.

Eighth Circuit—The counties of Adams, Schuyler, Mason, Cass, Brown, Pike, Calhoun, and Menard.

Ninth Circuit—The counties of Knox, Warren, Henderson, Hancock, McDonough, and Fulton.

Tenth Circuit—The counties of Peoria, Marshall, Putnam, Stark, and Tazewell.

Eleventh Circuit—The counties of McLean, Livingston, Logan, Ford, and Woodford.

Twelfth Circuit—The counties of Will, Kankakee, and Iroquois.

Thirteenth Circuit—The counties of Bureau, La Salle, and Grundy.

Fourteenth Circuit—The counties of Rock Island, Mercer, Whiteside, and Henry.

Fifteenth Circuit—The counties of Jo Daviess, Stephenson, Carroll, Ogle, and Lee.

Sixteenth Circuit—The counties of Kane, Du Page, De Kalb, and Kendall.

Seventeenth Circuit—The counties of Winnebago, Boone, McHenry, and Lake.

There is also a circuit in Cook County.

IX. AREA AND POPULATION OF ILLINOIS AND CHICAGO

ILLINOIS		CHICAGO	
Area, 56,650 sq. m.			
POPULATION		POPULATION	AREA
1810	12,282	1837.. ...	4,170... 2.55 sq. m.
1820	55,162	1840.....	4,479
1830	157,445	1850.....	29,963
1840	476,183	1860.....	109,206
1850	851,470	1870.....	306,605
1860	1,711,951	1880.....	491,516
1870 ...	2,539,891	1890.....	1,099,850... 180.20 sq. m.
1880 ...	3,077,871		
1890	3,826,351		

X. REFERENCES AND ABBREVIATIONS

REFERENCES

1. The government of Illinois is a government of law. In order to know what it is, therefore, it is necessary to know the laws which create it and in accordance with which it exists. These laws are : (1) the Constitution of the United States ; (2) the statutes enacted by the Congress of the United States ; (3) treaties made by the United States with foreign nations or with the Indian tribes ; (4) the Constitution of Illinois ; (5) the statutes enacted by the Illinois Legislature ; (6) the ordinances made by City Councils, or by other bodies duly authorized by the Legislature.

2. Every essential fact concerning the government of the State is to be found in one or more of these sources. To these reference should always be made in case of doubt.

3. Various departments of government publish "manuals," or some similar documents, usually each year, in which will be found the names of public officers and other facts of interest.

4. The Constitution of the United States* and the Constitution of Illinois are in the Appendixes to this book.

5. The Statutes of Congress are gathered into a volume known as the "Revised Statutes of the United States," with several smaller volumes called "Supplements" and containing laws made later than the date of the Revised Statutes.

"The Statutes at Large" are a collection, in many volumes, of all the laws which Congress has ever made, arranged by years.

6. The "Revised Statutes of Illinois" are also collected into a single volume—one edition having several volumes.

The Illinois "Session Laws" are the enactments of each Legislature, arranged by years.

7. Cities usually publish collections of their laws and ordinances—as is also the case with other subordinate legislative authorities.

8. The treaties of the United States are published by the United States Government in a volume called "Treaties and Conventions of

* Part I., p. 104.

the United States." Those made later than the publication of this volume may be found in other public documents, which may usually be obtained from a member of Congress.

ABBREVIATIONS

The following abbreviations are used in this book :

"U. S. Const." = Constitution of the United States.

"Ill. Const." or simply "Const." = Constitution of Illinois. Citations to the Illinois Constitution if not in foot-notes are sometimes made by noting merely the article and section (*e. g.*, Art. X., § 1).

"U. S. Rev. Stat." = Revised Statutes of the United States.

"Ill. Rev. Stat." or simply "Rev. Stat." = Illinois Revised Statutes.

"L. & O." = Laws and Ordinances of Chicago.

"Donaldson" = Donaldson's "The Public Domain."

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